



Appeal Decision

Hearing held and site visit made on
4 February 2009

by **Terry G Phillimore** MA MCD MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
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Decision date:
13 February 2009

Appeal Ref: APP/J1915/A/08/2074679

35 Burnham Green Road, Tewin, Herts AL6 0NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs P Smith against the decision of East Hertfordshire District Council.
- The application Ref 3/07/2061/FP, dated 28 September 2007, was refused by notice dated 26 November 2007.
- The development proposed is a replacement dwelling.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue is whether the proposal constitutes inappropriate development in the Green Belt and, if so, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

3. The site is located within the Green Belt as shown in the East Hertfordshire Local Plan Second Review 2007. Government guidance in PPG2 states that the replacement of an existing dwelling need not be inappropriate development in the Green Belt, providing the new dwelling is not materially larger than the dwelling it replaces. It indicates that development plans should make clear the local approach, including the circumstances (if any) under which replacement dwellings are acceptable.
4. Policy GBC1 of the Local Plan follows this guidance, and cross refers to policy HSG8 which deals specifically with replacement dwellings. This sets out two initial circumstances for the consideration of such proposals. The first is that the original dwelling is of poor appearance or construction not capable of retention. The existing building in this case is a two-storey detached house dating from 1924, with its main entrance to the side. The appellants use the terms 'interesting', 'oddness' and 'idiosyncratic' in describing its appearance, and refer to its 'diminutive size' in relation to its neighbours. The Council describes it as being 'of a unique design with architectural merit in its arts and crafts appearance'. A recent English Heritage report, which finds the house to be architecturally modest and not of sufficient quality to merit listing,

nevertheless acknowledges that it is of some local interest as a design for a small house which combines some Arts and Crafts inspired elements with Art-Deco style modelling. That seems to me to be an appropriate assessment of its qualities, and in my view it is not of a poor appearance.

5. With respect to construction, the appellants have submitted a consulting engineers' assessment. This identifies shortcomings in the building's foundations by comparison with current standards, and some evidence of fracture damage. However, its conclusion that consideration should be given to demolition and rebuilding falls well short of establishing that the building is not capable of retention. This is notwithstanding its energy efficiency limitations.
6. The second circumstance under policy HSG8 for consideration of a replacement dwelling proposal is that the original dwelling does not contribute to the character or appearance of the surroundings in the Green Belt. The house is located within a semi-rural area where properties are located along the road frontage in a woodland setting. The buildings vary in style and size, with some variety also in plot widths. The siting and size of the appeal building allow for views through to the wider green setting and, combined with its appearance, the dwelling in my opinion makes some contribution to the surroundings.
7. Policy HSG8 also includes three criteria against which proposals will be considered. The first, that the dwelling to be replaced has a lawful residential use, is complied with here. The second is that the volume of the new dwelling is not materially larger than the dwelling to be replaced plus any unexpended permitted development rights excluding separate buildings. The only quantification before me is the Council's calculation that the floorspace with the proposal would rise from approximately 150m² to 270m², an 80% increase. The appellants do not question these figures or suggest compliance with this criterion, and agree that the increase would be beyond that indicated as acceptable under PPG2.
8. The third criterion is that the new dwelling would be no more visually intrusive than the dwelling to be replaced. The proposed two-storey house in this case would be sited slightly further back than the existing house. It would have a greater width and fill more of the plot, but on one side would comprise a single storey wing. Its style would be in keeping with others in the area. The Council accepts that there would be no loss of trees. While clearly larger than the existing building, the proposal would not in my opinion be more visually intrusive.
9. Taken overall, I find that the proposal is in conflict with significant parts of policy HSG8. It would amount to inappropriate development in the Green Belt. While it would not be visually harmful, the most important attribute of Green Belts identified in PPG2 is their openness. In this case I consider that the greater footprint of the proposal and the reduction in the permeability of the site would materially erode the degree of openness. This would be an element of harm in addition to that by reason of inappropriateness.
10. The appellants put forward two arguments as considerations in favour of the proposal. The first is that the proposed larger dwelling would be more fitting to the area and thus allow development on the site to be better assimilated into the general character of substantial properties in a woodland setting. Having

regard to my view set out above on the qualities of the existing dwelling, I consider that the suggested reduced prominence of the development and greater harmony with the surroundings would not be significant. I therefore give little weight to this argument. I note that in a nearby appeal (ref APP/J1915/A/05/1185841) on an extension at 86 Bramfield Road, involving a doubling of the size of the dwelling, the Inspector found very special circumstances on the basis of such an argument. However, that finding clearly related to the particular characteristics of the site, where the Inspector considered that the existing building appeared somewhat out of place and the curtilage was much larger than most others in the area. Those factors do not apply in the current case.

11. I also take into account the suggested benefits of the proposal compared with a fallback position based on extensions to the appeal property that could be undertaken by way of permitted development rights. However, from the discussion at the hearing the scope of what could be implemented in terms of its likely form is largely conjecture at this stage, and there is no firm basis for comparison before me. I therefore give this position little weight in my assessment.
12. The second argument put forward by the appellants relates to the interpretation said to have been taken of Green Belt policy by the Council in respect of development permitted in the immediate area in recent years. Cases are cited where substantial increases in the size and volume of dwellings are claimed to have been allowed. However, as the appellants accept, individual developments should be considered on their own merits. I do not have full details on the particular cases referred to, and they are balanced by the Council's general reference to its resistance of inappropriate development in the vicinity. The weight carried by this argument is thus also limited.
13. I conclude that there are not individual or combined considerations such as to clearly outweigh the harm by reason of inappropriateness and to openness, and the proposal is not justified on the basis of very special circumstances.
14. I have taken into account all other matters raised, including the absence of neighbour objections. For the reasons given above I conclude that the appeal should be dismissed.

T G Phillimore

INSPECTOR



Appeal Decision

Hearing held and site visit made on
5 February 2009

by **Terry G Phillimore** MA MCD MRTPI

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

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Decision date:
13 February 2009

Appeal Ref: APP/J1915/A/08/2074396

Hales Croft, Green Tye, Much Hadham, Herts SG10 6JP

- 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 Ian Harding against the decision of East Hertfordshire District Council.
- The application Ref 3/07/2479/FP, dated 18 November 2007, was refused by notice dated 21 January 2008.
- The development proposed is a two storey rear extension.

Decision

1. I allow the appeal, and grant planning permission for a two storey rear extension at Hales Croft, Green Tye, Much Hadham, Herts SG10 6JP in accordance with the terms of the application, Ref 3/07/2479/FP, dated 18 November 2007, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until full details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Application for costs

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

Main issues

3. The main issues are:
 - a) the effect the proposal would have on the character and appearance of the Green Tye Conservation Area and the rural qualities of the locality;
 - b) in the event of adverse findings under the first issue, whether there are any other considerations such as to outweigh these and justify allowing the proposal.
-

Reasons

Conservation Area and rural qualities

4. The site is located within the Green Tye Conservation Area. No assessment has been produced by the Council of the Area's special interest. From the discussion at the hearing and my observations, it is based on the features of the village settlement which it covers, with some notable older buildings and a setting of green spaces framing the road layout. Policy BH5 of the East Hertfordshire Local Plan Second Review 2007 sets out the expectation that extensions and alterations of unlisted buildings in Conservation Areas should be sympathetic to the existing character and appearance.
5. Policies GBC2 and GBC3 deal with the Rural Area beyond the Green Belt. Under the latter, acceptable development includes limited extensions or alterations to existing dwellings in accordance with policy ENV5. Since the appeal site is located outside the defined main settlements and Category 1 and 2 Villages, this indicates that an extension is expected to be of a scale and size that would, either by itself or cumulatively with other extensions, not disproportionately alter the size of the original dwelling nor intrude into the openness or rural qualities of the surrounding area. Paragraph 8.9.2 says that it is not possible to state categorically what maximum size of extension is likely to be permissible, given the wide range of existing dwelling types and sizes which comprise the rural housing stock.
6. The property is a detached house. It has previously been extended pursuant to a permission granted in 1979. This added to the width of the house in the form of a two storey side extension. Situated in a central position within the village, it is set back from the road on its plot, with open space to the side and rear. This gives it considerable presence and the appearance from the front of a substantial property within a large curtilage. However, it is a house of relatively limited depth by comparison with its width.
7. The current proposal is for a two storey extension across the whole of the rear, and an infill side extension within an existing recess to one side. The Council calculates that, taken together with the previous extension, there would be an increase of around 133% on the floorspace of the original dwelling. While size limits are not set out in the Plan in defining 'disproportionate', this is clearly a considerable increase, and in that respect the proposal would appear to conflict with the expectation of the policy for alteration in the size of an original building not to be disproportionate.
8. However, within the particular context of this building I consider that the character and appearance of the house would not be significantly altered. The extension is intended to match the design and finish of the existing building, with a new consistent roof treatment. From the front, the current impression would be largely unchanged. Rear views are limited by boundary vegetation, and from positions where the rear would be seen and in views of its flanks the extended building would be in keeping with the existing perception of a large property. With the size and location of the plot there would be no material erosion of the openness or rural qualities of the surrounding area. In my opinion the character and appearance of the Conservation Area would be

preserved. The proposal would thus comply with policy BH5 and much of policy ENV5, as well as policy ENV1 on design quality.

9. With the proposed materials and absence of identified harm to neighbouring amenities, there would be no breach of the criteria for extensions in policy ENV6. There would also be no adverse effect on the range of dwelling sizes and in particular the supply of smaller dwellings as referred to in paragraph 8.9.1 of the Local Plan, given that the house already has 5 bedrooms and would remain with that number.
10. I therefore find that the proposal would be compatible with the Conservation Area and the rural qualities of the locality. To the extent that there is conflict with policy ENV5, this is outweighed by the particular features of the building and the site, the limited impact of the proposal, and the compliance with other policy requirements.

Other matters

11. The appellant has made representations with respect to consistency with other decisions, restrictions imposed by the existing size and layout of the property, personal circumstances, and human rights considerations. In view of the conclusions I have reached on the first issue, there is no need for me to go on and consider these other matters, and they have not affected my decision.

Conclusion

12. For the reasons set out above, and with a condition to ensure satisfactory external finishes, I conclude that the appeal should succeed.

T G Phillimore

INSPECTOR



Costs Decision

Hearing held and site visit made on
5 February 2009

by **Terry G Phillimore MA MCD MRTPI**

an Inspector appointed by the Secretary of State
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Decision date:
13 February 2009

Costs application in relation to Appeal Ref: APP/J1915/A/08/2074396 Hales Croft, Green Tye, Much Hadham SG10 6JP

- 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 Ian Harding for a full award of costs against East Hertfordshire District Council.
- The hearing was in connection with an appeal against the refusal of planning permission for a two storey rear extension.

Summary of Decision: The application fails and no award of costs is made.

The Submissions for the Appellant

1. The Council's refusal of permission was unreasonable. Its assessment of the proposal showed an undue reliance on the size of this, as reflected in its hearing statement. It does not appear to have undertaken a balancing exercise, basing its approach merely on the application of a formula. It gave no consideration to the actual appearance of the proposal and its effect on the area. The Council does not appear to accept that the appellant is entitled to a consistent approach. Its statement says that the appellant's needs are not a material planning consideration.
2. The Council failed to submit the questionnaire in time. There were errors in its appeal documents, including referring to a different village. The Council was invited to withdraw its refusal and discuss conditions, but it would not agree to this.
3. The appellant's costs of the appeal should therefore be paid by the Council.

The Response by the Council

4. It is disputed that the refusal of permission was unreasonable behaviour. The application was properly considered in the light of the development plan, national policy and other material considerations. It is clear from the delegated officer report and the reasons for refusal that in considering the application the Council had regard to both the cumulative impact taking into account the floorspace increase but also the impact of the size, scale and design. These were the physical impacts of the proposal on the dwelling, locality and the Conservation Area.
 5. The reasons for refusal have been expanded upon in the pre-hearing submissions and during the hearing. These have demonstrated a regard for the Local Plan policies and other material considerations.
-

6. The late submission of the questionnaire led to no unnecessary costs for the appellant. The typographical errors made are not material to the case.
7. The appellant's letter suggesting withdrawal of the refusal was responded to in 5 days. The response confirmed that the Council was to pursue its refusal.
8. The Council has not acted unreasonably, and the application is unjustified.

Conclusions

9. I have considered this application for costs in the light of Circular 8/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
10. Paragraph 7 of Annex 3 of the Circular requires that a planning authority should not prevent, inhibit or delay development which could reasonably be permitted, in the light of the development plan, so far as it is material to the application, and of any other material considerations. Paragraph 8 requires that reasons for refusal should be complete, precise, specific and relevant to the application. It states that in any appeal proceedings the authority will be expected to produce evidence to substantiate its refusal by reference to the development plan and all other material considerations. Each reason for refusal will be examined for evidence that the provisions of the development plan and relevant Government advice were properly taken into account. Paragraph 12 identifies that a planning authority will be at risk of an award of costs against them if they refuse an application which accords with material policies or proposals in the development plan, and they are unable to show that there are any other material considerations supporting such a refusal. The Appendix to the Circular cites planning authorities failing to comply with normal procedural requirements for inquiries or hearings as an example of action that could give rise to a risk of an award of costs.
11. It will be apparent from my decision on the appeal that I have found the proposal to be acceptable in relation to its impact on the Conservation Area and the rural locality. However, that is largely a matter of judgement. I identify an element of conflict with the development plan in relation to the size of the extension, and consider that the Council appropriately highlighted this aspect of the proposal. At the same time I consider that both its written statement and hearing submissions went beyond the quantitative addition, and put forward arguments relating to the impact of the proposal on the building and the character of the area including its rural qualities. While I have not agreed with these points, I consider that the Council substantiated its refusal by way of evidence and making appropriate reference to relevant policies. It therefore did not behave unreasonably in this respect.
12. The Council's appeal statement in paragraph 5.2 acknowledges the appellant's asserted need for extra living accommodation. It goes on to say that "this is not a material consideration that significant weight should be attached to". The need was therefore treated as being material; the weight attributed to it is a matter for the decision maker. The Council's submissions at the hearing were consistent with this position and reflected an appropriate evaluation of the

proposal on its own merits. I find no unreasonable behaviour based on a failure to take material considerations into account.

13. The Council's questionnaire and documents were due to be submitted by 4 June 2008. They were not received by the Planning Inspectorate until 18 June. No reason has been given for this, and I regard the lateness as an element of unreasonable behaviour. However, following a request by the appellant, an extension of the deadlines for submission of statements and final comments was given to allow for this delay. No resultant unnecessary expense for the appellant has been identified. The minor errors in the Council's submissions were not such as in my view to amount to unreasonable behaviour.
14. I consider that unreasonable behaviour resulting in unnecessary expense, as described in Circular 8/93, has not been demonstrated and I therefore conclude that an award of costs is not justified.

Formal Decision

15. I refuse the application for an award of costs.

T G Phillimore

INSPECTOR



Appeal Decision

Site visit made on 2 February 2009

by **Peter Eggleton MRTPI**

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

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Decision date:
19 February 2009

Appeal Ref: APP/J1915/A/08/2084664

30 Benhooks Avenue, Bishop's Stortford CM23 3RQ.

- 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 John Doyle against the decision of East Herts Council.
- The application Ref 3/07/2553/FP, dated 30 November 2007, was refused by notice dated 9 April 2008.
- The development proposed is the conversion of the existing three bedroom semi-detached dwelling into 2 two-bed flats.

Decision

1. I allow the appeal and grant planning permission for the conversion of the existing three bedroom semi-detached dwelling into 2 two-bed flats at 30 Benhooks Avenue, Bishop's Stortford in accordance with the terms of the application, Ref 3/07/2553/FP, dated 30 November 2007 and the plans submitted therewith, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) A revised plan to demonstrate a centrally located 4.1 metre wide vehicle crossing, two parking spaces and full details of the materials to be used in the front garden area, including the front boundary treatment, shall be submitted to and approved in writing by the local planning authority. The works shall be carried out and completed in accordance with the approved details prior to the occupation of any part of the development. The parking spaces shall be kept available for the parking of cars at all times.
 - 4) Prior to commencement of development details of the proposed west elevation shall be submitted to and approved in writing by the local planning authority.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area; parking provision; and the living conditions of neighbouring residents.

Reasons

3. The Council have raised concern with regard to parking provision. The proposal would result in two parking spaces, one for each flat. The Highways Officer has not raised an objection to this level of provision, advising that it would not be uncommon for an area such as this. I have not been provided with any evidence to suggest that this professional advice is in any way flawed and as such I must give it considerable weight. Appendix II of the Local Plan (LP) sets out maximum parking standards which form the basis for the assessment of car parking provision in relation to Policy TR7. This proposal does not exceed these requirements as it sets out a maximum provision of three spaces. There would therefore be no breach of this policy. The existing dwelling can accommodate two cars and whilst I accept that the proposal would have more bedrooms, I am not satisfied that it would result in a greater demand for on-street parking.
4. During my visit, many cars were parked fully on the wide pavements. In a number of cases these did not impinge on pedestrian movement but there were also a number of instances where this arrangement would certainly have been inconvenient for pedestrians with pushchairs, wheelchairs or for the visually impaired. I note the information submitted with regard to the legal status of such parking. However, as this proposal makes provision for off-street parking, I am not satisfied that this proposal would add to this situation.
5. Outwardly, the property would not be significantly altered in terms of its appearance. It would be extended to the side which would reduce the gap between this property and its neighbour but the width of the proposal would be limited and a significant gap would remain. The front garden would lose the small area of grass to parking but I do not consider that this would materially change the character of the street. Given these limited changes, I do not consider that it would set an undesirable precedent for the wider area or that the change from a three bed dwelling to two flats would necessarily change the character of occupation. I have not been satisfied that the provision of two bed flats or the loss of a three bed house, even if repeated, would undermine the Council's approach to providing an appropriate mix of housing in the area.
6. I have considered the impact of the proposal on the neighbouring residents. The rear extensions would reduce the aspect from the rear rooms of the neighbouring properties and reduce direct sunlight either in the morning or the evening. However, with regard to number 32, this loss of outlook would be very limited due to the single-storey nature of the adjacent part of the extension and the loss of sunlight in the mornings would not be so significant as to harm the living conditions of the residents. The other neighbouring property would lose some sunlight in the evening during the summer months as a result of the two-storey element of the rear addition. However, given the distance between the properties that would remain and the aspect, this loss would be extremely limited. Similarly, the impact on the outlook from that property would not be sufficient to materially harm living conditions.
7. I appreciate the concerns of the adjacent resident with regard to noise, particularly with regard to the position of a living room adjacent to a bedroom.

This is not ideal but the works would have to meet the appropriate standards as set-out in the Building Regulations with regard to noise transmission. Standards with regard to the structure of the building would also need to be met. Given the existence of this legislation, I consider that the proposal would be acceptable in this respect. Concern has also been raised with regard to the potential for the loss of a tree on the boundary. This tree is not significant in planning terms. Any works to it or its removal would be a matter for the relevant parties as would the issue of access onto neighbouring land.

8. I have considered all the matters put forward by the Council and neighbouring residents. I do not find that they weigh heavily against the proposal. I am satisfied that it would not harm the living conditions of the neighbouring residents, harm the character of the area or prejudice highway safety. It would not be contrary to Policy ENV1 of the LP which relates to design and the amenities of neighbours and it would satisfy Policy TR7 with regard to parking. It would result in a more efficient use of this site and given the lack of any significant harm, I allow the appeal.
9. I have imposed conditions to require that the materials would match those of the existing house to ensure that the works would have a satisfactory appearance. I have also required the submission of detailed plans relating to the front garden area and the kerb crossing to ensure that it would have a satisfactory appearance and have the least impact on pedestrian safety and on-street parking, as requested by the Highway Officer. I have not included the general landscaping conditions as this would primarily be for the personal tastes of future occupants and with regard to the front garden would be addressed by the condition described above. I have also required the submission of a west facing elevation plan for completeness. I have not imposed the condition suggested with regard to hours of work as although I acknowledge the concerns of the neighbours, I consider that this matter would be better addressed through the appropriate environmental legislation.

Peter Eggleton

INSPECTOR



Appeal Decision

Site visit made on 27 January 2009

by **Martyn Single DipTP MRTPI**

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

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Decision date:
16 February 2009

Appeal Ref: APP/J1915/A/08/2083379

4 Regency Close, Bishop's Stortford, Herts, CM23 2NP

- 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. Martin O'Flaherty against the decision of East Hertfordshire District Council.
- The application (Ref 3/07/2594/FP), dated 7 December 2007 was refused by notice dated 27 February 2008.
- The development proposed was described as a first floor rear extension with part ground floor addition, and loft conversion for additional accommodation, domestic dwelling use.

Decision

1. I dismiss the appeal.

Reasons for Decision

2. The site is within the Bishop's Stortford Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The main issue in this appeal, in my view, is the effect of the proposal on the character or appearance of the Conservation Area by reason of its form and design. The property is one of a number in Regency Close all with a quite simple design with a ridged roof and white rendered external walls. Their consistency contributes to the character and appearance of the close.
3. To the rear of the property the land falls steeply down to the junction of Bell's Hill and Hadham Road. Because of this the existing dwelling is in a very prominent and elevated position, particularly when trees are not in leaf, requiring very careful attention to the design of extensions. Policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review April 2007 require a high standard of design for all development, and expect extensions to be complementary to the original building and its setting.
4. The proposal would involve very substantial additions at first floor above an existing flat roofed ground floor extension, incorporating an entirely new rear gable to accommodate a further room in the roof space and a rear balcony. The extension would wholly change the external appearance of the property with a somewhat cumbersome asymmetrical roof form that would

not be characteristic of this style. I noted on my visit that the adjoining property, no. 3 has been extended at the rear with a relatively sizeable addition. However, when I viewed the site from Hadham Road beyond the junction it was apparent that the appeal site is in a far more exposed position than its neighbour and that it was more difficult to see the rear of that dwelling. By contrast, I consider that the appeal proposal would appear unduly prominent and out of character with the existing dwelling. I do not subscribe to the appellant's submission that its design features would enhance the aesthetic appeal of the extension. Whilst small balconies are a feature to the front of these properties one in such a position in the extended roof would appear wholly alien. In my judgement the development as a whole would be so prominent in the street scene that I consider that it would neither enhance nor preserve the character or appearance of the Conservation Area.

5. I conclude, therefore, that the proposal would have an adverse effect on the character or appearance of the Bishop's Stortford Conservation Area. It would conflict with Policy BH6 of the adopted Local Plan.
6. Although I note that the Council has granted planning permission for a revised design this does not affect my decision with regard to the proposal before me which I find unacceptable.

Martyn Single

INSPECTOR



The Planning Inspectorate

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Mr Glyn Day
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Your Ref:

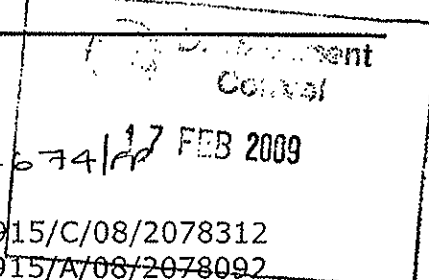
3/07/2007/17 FEB 2009

Our Ref:

APP/J1915/C/08/2078312
APP/J1915/A/08/2078092

Date:

13 February 2009



Dear Mr Day

Town and Country Planning Act 1990

Appeals by A T Bone & Sons

Site at Little Samuels Farm, Widford Road, Hunsdon, SG12 8NW and Little Samuels Farm, Widford Road, Hunsdon, SG12 8NN

I enclose for your information a copy of a letter received on 13 February 2009, withdrawing the above appeals.

I confirm no further action will be taken.

The local inquiry to be held at Council Offices, Wallfields, Pegs Lane, Hertford on 31 March 2009, has been cancelled. Please try to bring this cancellation to the notice of anyone who may have taken note of the inquiry arrangements.

Yours sincerely

Kate Vicker

E208D(BPR)

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<http://www.pcs.planningportal.gov.uk/pcspportal/caserech.asp>

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31.3.09



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February 13th 2009

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Dear Kate

Section 78 & Section 174 Appeals
Units B C and D at Little Samuels Farm, Widford Rd., Hunsdon
For A T Bone & Sons
APP/J1915/C/08/2078312 and A/08/2078092

Following the decision of East Herts District Council on Wednesday 11th February 2009 to grant retrospective planning permission (3/08/2052/FP) for a revised planning application at the above site, I am instructed to withdraw both the Section 78 appeal against refusal of application 3/07/2674/FP and the Section 174 appeal against the Enforcement Notice as the Council has now agreed not to enforce its requirements. I would therefore be grateful if you would mark your files accordingly.

Please accept our apologies for any inconvenience caused.

Yours sincerely,

Jane R Orsborn
Cc EHDC;
Mr R Bone, A T Bone & Sons and
Aiver Contracts

Jane R Orsborn BA Hons; Dip TP; MRTPI; DMS; MIMgt



Appeal Decision

Site visit made on 20 January 2009

by **N R Taylor** BSc CEng MICE MIHT

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

The Planning Inspectorate
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Decision date:
4 February 2009

Appeal Ref: APP/J1915/A/08/2083065 3 North Rd Avenue, Hertford

- 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 A M Cook against the decision of East Hertfordshire District Council.
- The application Ref 3/07/2703/FP, dated 21 December 2007, was refused by notice dated 18 February 2008.
- The development proposed is described as a single storey rear extension loft conversion & 2100 side boundary fence to rear garden (east side).

Decision

1. I dismiss the appeal.

Main issues

2. The main issues are: -
 - i. the likely impact on the character and appearance of the existing building; and
 - ii. the likely impact on the character and appearance of the street scene.

Procedural Note

3. Planning permission (ref. 3/08/0423/FP) was granted for the single storey rear extension and side boundary fence on 3 April 2008 and these elements had been constructed at the time of my visit.

Reasons

4. The appeal building is a semi-detached dwelling in a residential cul-de-sac comprising similar semi-detached houses in a built-up area of Hertford. The development would consist of a loft conversion incorporating dormer windows in the rear and side roof slopes. I note that there is no objection to the rear dormer.
5. The appeal property is the end property of the houses on the south side of North Road Avenue. The east side elevation of the property faces towards the rear elevations of the houses on the west side of North Road and is separated from them by the rear gardens of these houses and an access track. North Road Avenue rises from its junction with North Road at a significant gradient and the combination of this and the space between the appeal dwelling and the adjacent houses on North Road results in there being a prominent view of the

property, particularly on the approach along North Road Avenue from North Road.

6. Although the proposed side dormer window would be constructed in materials to match the existing, it would be of a significant size - extending from a little below the existing roof ridge height and projecting to some little distance back from the side elevation of the building. It would also be of a width to accommodate 4 No glazing units.
7. In my view this would be a significant addition to the roof which, because of its size, would have a dominating impact on the existing roof. Additionally, because of the prominent location of the appeal property, it would be a clearly visible feature in the street scene. It would also be readily seen from the rear of the adjacent properties in North Road. I have therefore formed the opinion that the size and prominence of the dormer would result in significant harm to the character and appearance of both the existing building and the street scene.
8. I have noted the references to other existing and planned dormers in the street. However it is my view that none of these are comparable to the proposed development. Other than that at No 21 these are generally located on properties which have side elevations in close proximity to other houses so that the dormers are not prominently visible in the street scene as would be the case with the proposed development. Although that at No 21 is visible from the street, the property is not located in as prominent a location as No 3 and the dormer is only visible from a limited part of the street. It differs therefore, in my opinion, from the circumstances at No 3. Reference is also made to a dormer at No 7. However this had not been constructed at the time of my visit, however I did note that this would also be located on a side elevation which faces on to another property.
9. I consider that the harm which would be caused to the existing building and street scene would outweigh any benefits which the development would provide. I have therefore determined that the development would conflict with Local Plan Policy ENV6 of the East Herts Local Plan Second Review April 2007 which seeks to ensure that roof dormers are appropriate to the design and character of the original dwelling and its surroundings and be of limited extent and modest proportions.
10. For the reasons given above I conclude that the appeal should be dismissed.

NR Taylor

INSPECTOR



Appeal Decision

Site visit made on 20 January 2009

by **N R Taylor** BSc CEng MICE MIHT

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Decision date:
2 February 2009

Appeal Ref: APP/J1915/A/08/2083012

Keepers Cottage, Bragbury Lane, Datchworth, Herts SG3 6QZ

- 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 Nigel Smith against the decision of East Hertfordshire District Council.
- The application Ref 3/08/0062/FP, dated 8 January 2008, was refused by notice dated 26 February 2008.
- The development proposed is a single storey extension to be used as elderly relative annexe.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue in this case is whether the proposal would constitute inappropriate development harmful to the Green Belt, and if so, whether there are other considerations sufficient clearly to outweigh the harm.

Reasons

3. The appeal site is located in relatively open surroundings of largely agricultural land within the Metropolitan Green Belt. The site is set a little above the adjacent road and is occupied by a large detached house and a separate double garage.
4. The development would comprise a single storey extension to the existing dwelling and be located between the house and garage.
5. The existing building is a structure of varied form, generally a pitched roof two-storey building with some first and second floor projections. The proposed single storey extension would be a hipped roof addition to the north east gable end of the main part of the building. It would be constructed in materials which would match and, in my view, be of a style which would harmonise with the current building.
6. Planning Policy Guidance 2: *Green belts* (PPG2) includes the statement that there is a general presumption against inappropriate development in Green Belts. It goes on to say that the construction of new buildings inside a Green Belt is inappropriate unless it is for, among other things, limited extension, alteration or replacement of existing dwellings provided that it does not result in disproportionate additions over and above the size of the original building.

This is reflected in Policy GBC1 of the East Herts Local Plan Second Review April 2007.

7. On the evidence of previous planning permissions, the extension would result in a cumulative increase in floorspace from some 120 square metres to some 261 square metres. Whilst this is not set against any specific criteria, it nevertheless provides some guidance on the extent of the overall increase. I consider that that this is a substantial increase which could not be classed as a limited extension. It would therefore represent a disproportionate addition over and above the size of the original building and as a consequence be inappropriate development within the Green Belt.
8. The dwelling is surrounded by a large garden bordered by hedging. However, at the time of my inspection the hedging provided little in the way of screening and the building was readily seen from the adjacent road. It is my view that the property occupies a prominent position in the surrounding area, particularly as it is set a little above the road.
9. When viewed from the road, the dwelling is readily seen as being separate from the garage block. The effect of the development would be to fill this gap between the two buildings. The resultant collection of buildings would, in my judgment, have a somewhat bulky appearance and would have no visual break between the garage block and the main building. I note the appellant's view that this gap could be closed by means of a 2 metre high fence as permitted development. However it does not seem to me that this would result in the same bulkiness as would the proposed development. Given the open aspect of the setting of the site and its prominent position, I therefore consider that the proposal would have a significant impact on the openness of the surrounding area and the Green Belt.
10. I have formed the view that the development would represent inappropriate development which would harm the openness of the Green Belt. I have therefore considered whether there are any special circumstances which would justify the harm that I have identified. I have noted the appellant's personal circumstances and the reason for the development, and whilst I have every sympathy with these, I do not consider that that they amount to the very special circumstances which would justify the impact on the Green Belt.
11. It is my conclusion therefore that the development would conflict with Green Belt Policies in PPG2 and the Local Plan Policy GBC1.
12. For the reasons given above I conclude that the appeal should be dismissed.

N R Taylor

INSPECTOR



Appeal Decision

Inquiry held on 14 January 2009
Site visit made on 15 January 2009

by **Malcolm Rowe**

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

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Decision date:
3 February 2009

Appeal Ref: APP/J1915/A/08/2080041

1 Hawkins Hall Lane, Datchworth, Hertfordshire SG3 6TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Haven Developments Limited against the decision of East Hertfordshire District Council.
- The application Ref 3/08/0373/OP, dated 21 February 2008, was refused by notice dated 3 June 2008.
- The development proposed is 6 one-bedroom apartments with car parking and ancillary works.

Application for costs

1. At the Inquiry an application for costs was made by the Council against the appellant. This application is the subject of a separate Decision.

Decision

2. I dismiss the appeal.

Procedural and Preliminary Matters

3. It was agreed between the parties that the application has been made in outline, with access and layout to be determined at this stage but all other matters reserved.
 4. The Council confirmed that it had determined the application on the basis of Drawing Nos. 5142/300, 5142/02B (showing indicative outline of proposed apartments) and HAV/1/08 (Location Plan), together with the submitted Design and Access Statement. I have determined the appeal on the same basis.
 5. Although Drawing No. 5142/300A was submitted before the application was determined, I agree with the Council that it raises issues in relation to the proposed layout which local residents and other interested parties might well wish to comment on but have not had adequate opportunity to do so. I have therefore not considered Drawing No. 5142/300A in the context of this appeal.
 6. For present purposes, Tim Hagar and Robert Jepson formally adopted the proofs of evidence submitted by Susie Defoe (planning) and Mark Cornell (highways), who were unable to attend the Inquiry through illness. The appellant raised no objection to this approach.
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Main issues

7. I consider that the main issues are:-

- whether the proposal makes adequate provision for affordable housing in accordance with development plan policies; and
- the effect of the proposed development on -
- the character and appearance of the locality;
- the living conditions of the prospective occupants of the new flats with particular regard to garden amenity space; and
- highway safety.

Proposals and Planning Policy

8. Datchworth village is in open countryside to the south of Stevenage. The appeal site is to the east of Hawkins Hall Lane and opposite the junction with Brookbridge Lane. It comprises a roughly rectangular, 0.07 hectare plot which has recently been cleared of a pre-war bungalow. There is an extant planning permission for redevelopment of the site to provide a detached, 4-bedroom dwelling.
9. The present proposal seeks outline planning permission for 6 one-bedroom apartments within an indicated 2-storey building laid out centrally on the plot. The existing access and a hard-surfaced area would serve a total of six parking places to be provided to the front (2) side (1) and rear (3) of the new building. Garden amenity space would similarly envelope the opposite side of the irregularly-shaped building.
10. Within the adopted East Hertfordshire Local Plan Second Review (LPSR) Datchworth is defined as a Category 2 Village where Policy OSV2 permits residential infill and other small-scale development within the built-up area subject to various criteria. However, the policy context for consideration of the appeal proposal is complicated.
11. The Inspector's report on the LPSR recommended that Datchworth be re-defined as a Category 1 Village but the appropriate village boundary has yet to be defined as part of the emerging LDF process. It is therefore unclear whether this site on the edge of the village will be within or outside the settlement boundary.
12. Nevertheless, on the evidence before me, including the extant planning permission and the observations of my visit, I find in agreement with the approach taken by the Council and accepted by the appellant at the Inquiry that the fairest way to judge the present proposal is in relation to the built-up area of this Category 2 Village as presently defined in the LPSR.
13. Policy OSVR2 therefore applies and while the proposal is in outline I have taken into account all the relevant material considerations which are applicable to that policy including the number and type of residential units proposed.

Reasons

Affordable Housing

14. On the first issue, criteria II (b) and (c) of Policy OSVR2 require proposals for housing development to meet an identified local need, including providing up to 40% affordable housing in accordance with Policies HSG3 and HSG4, whilst complying with further criteria set out in the development plan. Under Policy HSG3, provision for affordable housing is expected where three or more dwellings are proposed on sites within Category 2 Villages.
15. The Councils' adopted Housing Needs Survey Update Final Report for Datchworth and Aston identified a need for 2 bedroom flats and three or four bedroom houses within Datchworth as owner occupier properties and a further but limited need for 1 bedroom houses for private open market rental. Within the affordable sector the identified need is for 1-bedroom flats provided through a State Registered Landlord (SRL) or similar body acceptable to the Council. In terms of criterion II (c) of Policy OSVR2 that would equate to two 1-bedroom flats in this case.
16. The proposed scheme does not meet the identified need for larger open market properties. In principle, it could provide small affordable units but there is no indication that the appellant is willing to meet this need. Indeed, when pressed on the point at the Inquiry, the appellant stated that as regards the present proposal no element of affordable housing is intended in the terms outlined above. Nor has any sound reason been put forward why, as suggested by the appellant, the flats should be made available for private open market rental in isolation of the identified need of the affordable sector.
17. In that connection, I do not accept the appellant's contention that small units in this location are by definition 'affordable'. As set out in Annex B to Planning Policy Statement (PPS) 3, affordable housing includes social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. Homes that do not meet that definition, for example 'low cost market' housing, may not be considered, for planning purposes, as affordable housing.
18. Whilst the definition of affordable housing in Policy HSG3 includes the term low cost market housing, it refers to housing provided with subsidy; in other words social rented and intermediate housing which complies with the definition set out in Annex B to PPS 3. This is explained further in the adopted Supplementary Planning Document 'Affordable Housing and Lifetime Homes' which adds weight to the Council's objection.
19. Even allowing that the proposal is in outline, in the absence of a suitable legal agreement, as things stand there is nothing to ensure that the requirements of Policy HSG3 for the provision of an element of affordable housing in accordance with Policy HSG4 are met. Furthermore, as the appellant is not a state registered landlord in my view it would be inappropriate to impose a condition to that effect on any outline permission in this case.
20. I conclude for these reasons that the proposal fails to make adequate provision for affordable housing and therefore conflicts with PPS 3 and development plan policy as outlined above.

Character and Appearance

21. The dwellings in this part of the village vary in age and style but for the most part occupy generous plots with well established gardens. Some have deep frontages of open lawn fringed by trees and shrubs, with those to the north east of the site set around an attractive small green. Grassed and sometimes banked verges with shrub planting or hedgerow are also a distinctive local feature. Just to the south of the site, the terraces of 2-storey dwellings have a more uniform appearance but are also set back from the road behind deep front gardens and do not detract from the pleasing sense of greenery and general openness.
22. Breaks in the built development afford an appreciation of farmland to the rear of the terraces and to the east of Hawkins Hall Lane. The semi-rural setting is emphasised in Brookbridge Lane where a ribbon development of detached bungalows in generous plots faces open countryside. Nutcroft to the south envelopes an area of more densely developed housing but is both physically and visually divorced from the appeal site.
23. The block accommodating the proposed six, one-bedroom apartments would occupy significantly more of the site than the original bungalow or the permitted, replacement detached dwelling. In addition to the six parking places and hard-standing, a covered cycle store would be provided to the rear of the plot and a dedicated refuse store near the front boundary. The garden amenity area would be smaller than the area provided for vehicles.
24. I am not persuaded that the proposed development could be satisfactorily integrated into the low density, semi-rural setting in this part of the village, even taking into account the retained and new boundary planting indicated on the approved plans. In my view, the extent and general disposition of the built form and hard-surfaced areas on site would appear uncharacteristically cramped, in effect creating an incongruous, over-developed residential enclave off Hawkins Hall Lane. This would be emphasised by the direct views from Brookbridge Lane on the very edge of countryside.
25. I visited the modern-style, 2½-storey dwelling to the rear of the appeal site which is presently visible across the cleared plot. This detached property is in large gardens and being set further back from the road does not unduly impose itself on its surroundings. Its presence would therefore do nothing to ameliorate the intrusive presence of the proposed apartment block. The new building would be closer to the road than the former bungalow and significantly larger in footprint than the permitted replacement dwelling. I consider that this would further erode the sense of openness in this semi-rural setting.
26. The appellant has commented on ways in which permitted development rights might be used in relation to the permitted dwelling, even though these would only be applicable if the extant planning permission were implemented. Given the nature of the site and its surroundings, the two schemes in my opinion are not directly comparable. I have also noted the planning history of the site including the previous appeal decision (Ref: APP/J1915/A/06/2020247) concerning an earlier proposal for a replacement dwelling. Although I have taken that decision into account as a material consideration, I have determined the present proposal on its own merits.

27. National planning guidance (PPS 3) encourages the efficient use of previously developed land, provided this is not at the expense of the quality of the environment. This important consideration is reflected in development plan policies. LPSR Policy ENV1 generally requires development to be of a high standard of design and layout and to reflect local distinctiveness. Criteria I (a) and (b) relate this to compatibility with the structure and layout of the surrounding area and the existing grain of development. Policy OSV2 expands on this in terms of sensitive design which allows development to satisfactorily integrate into the village setting.
28. I consider for the reasons outlined above that the present proposal would be starkly at odds with the established pattern and grain of development around the junction of Hawkins Hall Lane and Brookbridge Lane. In short, the form and intensity of development would fail to respect the spatial characteristics and semi-rural character of this part of Datchworth village. The proposal therefore conflicts with PPS 3 and the development plan policies already mentioned.

Amenity Space

29. In the absence of any specific criteria for amenity space in the development plan, the Council again highlights the general need for good design, reflecting local distinctiveness. It contends that the proposed layout would not provide adequate shared amenity space and garden for future occupants of the flats in keeping with the large residential gardens in this part of the village. It seems to me, however, that since the nearby gardens serve single dwelling-houses it would be unreasonable as a starting point to expect an equivalent area of amenity space in relation to these one-bedroom flats.
30. Looking at the layout in more detail, the shared private amenity area alongside apartments 1/5 is an apparent 4m strip. On the evidence of my visit, use of this limited area would be further restricted unless the existing boundary planting was substantially trimmed back and properly maintained. Further limited space would be provided to the rear of the site with a somewhat larger but less inviting amenity garden area at the front, near the road. In my view, the use of these areas would be further discouraged by the awkward shape of the garden and the juxtaposition of garden and parking spaces at the rear of the plot. It also seems to me that with three of the four ground floor entrances shown broadly on the southern side of the building, and the gardens broadly to the north, the design is not inclusive in terms of encouraging use of the provided amenity space.
31. In these circumstances, I am not persuaded that the scheme would provide adequate amenity space for the occupants of the flats. On that basis, the proposal does not demonstrate a high standard of design and layout and therefore conflicts with the aims of LPSR Policies ENV1 and OSV2.

Highway Safety

32. The existing and proposed access is off-set some 15m from the T-junction with Brookbridge Lane and taken from Hawkins Hall Lane, a registered Local Distributor road subject to a 30mph speed limit in the vicinity. Waiting restrictions are not in force but parking on the road outside the site is potentially hazardous because of the limited width of the carriageway, its

curving alignment with restricted forward visibility from the north, and the proximity of the junction.

33. There is uncontested evidence that Hawkins Hall Lane near the site is routinely congested at peak periods by traffic generated between the main residential area of the village to the south and the school to the north. Local children are encouraged to cycle or walk to school and a significant number pass the site or cross the road at or near the junction. I have also taken into account that the site is near a bus stop serving the local secondary school.
34. Although the existing access with an apparent width of about 3m would adequately serve a single dwelling, it would not allow two way traffic movements. It is therefore sub-standard in terms of the minimum width of 4.1m recommended by the County Highway Authority for accesses serving multiple dwellings, although I accept that this could be remedied by an appropriate condition. Even so, I agree with the Highway Authority that unless two of the six indicated parking places were unoccupied, the area of hard-standing would not provide sufficient turning space for vehicles to enter and leave the site in forward gear.
35. As a result, drivers are likely to enter the site forwards and have to reverse out. In that case, additional hazard would arise as they reverse onto the road at a point where vehicles may be rounding the shallow bend from the north or negotiating the adjacent T-junction including turning right into Hawkins Hall Lane. Alternatively, and in anticipation of the limited turning area on site, drivers might be encouraged to reverse into the site. In either case, such manoeuvres in my opinion would unacceptably increase the risk of accidents close to the bend and the junction.
36. The layout providing only six parking spaces on site is below the maximum standard applicable for this location as set out in the Council's adopted SPD 'Vehicle Parking Provision at New Development'. It is also below the more stringent parking provision for six one-bedroom apartments recommended by the County Highway Authority on highway safety grounds. Residents and visitors would therefore be more likely to park directly outside the site so further restricting the visibility splays and effective carriageway width at this point on Hawkins Hall Lane which demands a high level of driver care and attention.
37. In these circumstances, I conclude in agreement with the County Highway Authority that the proposal is substandard as regards on-site parking provision and turning space and detrimental to the interests of highway safety.

Other Matters

38. Although the drawing of the village boundary might also change the Green Belt category of the appeal site in terms of the current development plan, the site remains within the Green Belt and the proposed six apartments are likely to represent inappropriate development in terms of PPG2. The Council has not objected to the proposal on the basis of Green Belt policy because of these potential changes. There is little evidence to assess the proposal in terms of Green Belt policy. However, since I have found that the proposal is unacceptable on all of the grounds set out in the Council's reasons for refusal,

whether or not it would be unacceptable in terms of Green Belt policy, the proposal overall would remain unacceptable.

Conclusion

39. I have considered all other matters raised but there is nothing of sufficient weight to alter my decision that the appeal must fail.

Malcolm Rowe

Inspector



Costs Decision

Inquiry held on 14 January 2009

Site visit made on 15 January 2009

by **Malcolm Rowe**

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

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Decision date:
3 February 2009

Costs application in relation to Appeal Ref: APP/J1915/A/08/2080041 1 Hawkins Hall Lane, Datchworth SG3 6TF

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by East Hertfordshire District Council for a full award of costs against Haven Developments Limited.
- The inquiry was in connection with an appeal against the refusal of outline planning permission for six one-bedroom apartments with car parking and ancillary works.

Summary of Decision: The application is allowed in part in the terms set out in the Formal Decision and Costs Order

The Submissions for East Hertfordshire District Council

1. A full award of costs is claimed on the basis that the appellant has pursued an appeal which has no reasonable prospect of success. (Criterion 5 – Appendix to Circular 8/93). The claim is on two grounds: firstly in respect of the appeal against the issue of affordable housing (as a separate reason for refusal) and secondly in respect of the appeal against all the reasons for refusal.
2. On the housing issue, it has always been the appellant's case that there would be no provision of affordable housing in this proposal, even though the appellant clearly understands the development plan policy relating to affordable housing as set out in Policy OSV2 (c) of the East Herts Local Plan Second Review (LPSR). This in turn relates to Policy HSG3 which stipulates the affordable housing provision and is mentioned in the Council's reasons for refusal. The Council has also referred to the relevant guidance in PPS3. On that basis, the appellant must have been aware what was to be considered at the Inquiry including the need for an affordable housing provision. However, the Council has received no information in respect of this scheme that any provision would be made for affordable housing as defined in PPS3.
3. The appellant apparently took the view at the Inquiry that in respect of this proposal in outline, with some matters reserved, the affordable housing matter could be deferred to another day. At paragraph 5 (last page) of Mr Smith's proof of evidence, he says the Council made no request for additional information on the nature or use of the site, particularly with regard to the provision of any 'affordable units'. However, it would have been clear even from the appellant's own case that with no provision for affordable housing that particular reason for refusal could not be overcome on appeal.
4. Annex 2 of the Circular (at the top of page 15) advises that when assessing whether behaviour is unreasonable, account will be taken of the extent to

which an appellant obtained professional advice. The appellant does not say on the basis of somebody else's advice that affordable housing need not apply, or in any event need not be incorporated into the appeal scheme. The appellant has therefore acted unreasonably in respect of the affordable housing issue for the reasons given and with respect to the general conditions for an award of costs as set out in paragraph 6 of Annex 1 to the Circular.

5. The appellant has also acted unreasonably in relation to the issue of highway safety. In particular, the width of the access is not given on the approved Plan 5142/300 so it was reasonable for the Council to scale it off and it was found to be 3m – 3.2m. The appellant must have known this at application stage. By pursuing the appeal to Inquiry on that basis the appellant caused the Council to incur wasted costs. The Highway Authority would have no objection to the scheme on the basis of Plan 5142/300A but no attempt was made either at or prior to the Inquiry to invite the parties to deal with this matter on that basis. Without the revision in Plan 5142/300A it was necessary for a representative of the Highways Authority to attend the Inquiry in order to object to the scheme as applied for. So in this respect too the appellant has pursued an appeal with no reasonable prospect of success.
6. In terms of paragraphs 3.1 and 3.2 of Annex 2 to the Circular, the appellant has also acted unreasonably as regards reasons for refusal (1) effect on character and appearance and (3) inadequate garden amenity space. In particular, the appellant has failed to provide both an adequate pre-inquiry statement of case (Annex 2 paragraph 3.1) and required information in support of an appeal ground (Annex 2 paragraph 3.2).
7. Neither the appellant's statement of case nor Mr. Smith's Rule 6 statement provides any detailed assessment of the planning merits or the applicability of the local plan policies cited in the Council's reasons for refusal, even though the appellant acknowledges how the statutory development plan is defined. The appellant simply but unreasonably makes bold statements about a recognised local need for 1-bed flats whilst contending that the proposed scheme would enhance the character and appearance of the locality and provide an efficient use of land. Indeed, the appellant's statement of case (paragraph 9.04) makes no reference to material considerations sufficient to outweigh the development plan.
8. Looked at in the round, the appellant's unreasonable behaviour arises from a fundamental misconception about the nature of the outline application. In terms of Circular 01/2006, Layout and Access were to be dealt with at this stage. The proposal was for six residential units and on that basis it was foreseeable that other material considerations would have to be taken into account. It was therefore appropriate and necessary for the Council to raise each of its reasons for refusal at this stage.
9. Although aware of the contentious issues, the appellant acted unreasonably in relation to the substance of the case in terms of Annex 3 paragraphs 1, 2 and 3 to the Circular and as regards the analogous example of the Green Belt in paragraph 5. The appellant chose not to accept PPS3 in respect of the housing issue and has not submitted any evidence why the development plan should not prevail.

The Response by Haven Developments Limited

10. The appellant has not acted unreasonably by pursuing this appeal. The Council did not negotiate or discuss the outline proposal or the scheme in principle and has not engaged in the design process.
11. The appellant had a right to be heard and considered that the best means in this case would be by way of a Public Inquiry. The appellant has not been served well by being legally unrepresented but always felt the appeal had a reasonable chance of success.
12. The appellant accepted that there was a clear difference of opinion with the Council but did not accept that on that basis it was unreasonable to pursue the appeal. The question of costs must rest on whether there has been unreasonable behaviour.
13. As to the criteria in the Circular, the appellant has met them all and all other requirements in respect of presenting its case including providing a statement of case. Also, the appellant has not caused the Inquiry to be adjourned or other undue delay.
14. The appellant has not floun in the face of national planning policies and the appeal does not relate to an application for a proposal already refused. The appellant simply wanted to exercise the right to be heard on a new proposal which has a reasonable chance of success.

Conclusions

15. I have considered this application for costs in the light of Circular 8/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
16. It does seem to me on the basis of the evidence that the appellant misunderstood the nature of the application being made and the material planning considerations that necessarily flow from it. Although in outline, Layout and Access were to be considered at this stage and since the appellant specified the type and number of residential units proposed, I agree with the Council that it was necessary to consider all other material considerations in determining the application. In the appeal decision, I set out why I have substantially supported the Council in its interpretation of the relevant development plan policies, and on the planning merits of the case.
17. As regards the highway issues for present purposes, I give little weight to the Council's claim that by not pursuing the adoption of Plan 5142/300A the appellant has caused the Council unnecessary expense. In the appeal decision I accept that the need to ensure a minimum width of 4.1m for the site vehicular access could readily be addressed by an appropriate condition. However the highway objections raised by the Council in respect of the layout on approved Plan 5142/300 were much wider and in the Council's view clearly warranted the attendance of a professional witness. This was borne out at the Inquiry where the highway issues were examined thoroughly by both parties.

18. It seems from the statement of case that the appellant expected the remaining highway issues to be resolved by the amendments to layout shown in Plan 5142/300A. Yet it was the Council itself which took the view that Plan 5142/300A could not fairly be approved in relation to this case, principally because the amended layout raised other material planning considerations, which other persons with an interest in the case might want to comment on but would not have an opportunity to do so. I agreed with this approach at the Inquiry but on that basis the Council cannot then say the appellant acted unreasonably by not pursuing Plan 5142/300A in order to overcome the highway issues.
19. The appellant put forward limited evidence on reasons for refusal (1) and (3), relating to the impact of the proposal on the character and appearance of the locality and the provision of garden amenity space, respectively. However I find that these are more finely balanced issues requiring a planning judgement. As he was entitled to do, Mr Smith argued the appellant's case and keenly tested the Council's evidence on these matters at the Inquiry, including issues relating to the appropriate interpretation of policy. Although I have agreed with the Council on the planning merits, I accept that these matters are not so clear cut that it could be said there was no reasonable prospect of success.
20. That said, I view the separately identifiable issue of affordable housing in a different light. The appellant in my view had enough before him to fully understand the policy context and the particular requirement for an affordable housing provision in relation to this proposal for six 1-bedroom apartments, even at outline stage.
21. However at no point has the appellant either proposed or conceded the need for an affordable housing provision and when pressed on the matter at the Inquiry stated categorically that one was not being offered in this case. In that regard the appellant cannot ignore the definition of affordable housing in PPS3 and has offered no convincing evidence why, against well established development plan policy, these 1-bedroom flats should be offered on the private market rather than made available to meet the clearly identified need of the affordable sector.
22. I consider on these grounds that as regards affordable housing provision the appellant has acted unreasonably by pursuing the appeal without regard for adopted policies in an up-to-date development plan and national policy as set in PPS3.
23. In reaching this conclusion I am mindful of the appellant's lack of professional advice, as discussed in paragraph 5 of Annex 1 to Circular 8/93. I also note that the Council in drawing attention to the relevant facts has not taken the opportunity at any time before the Inquiry, to strengthen its case for an award of costs by also drawing to the appellant's attention the possible consequences of persisting with an appeal, as advised in paragraph 6 in Annex 3.
24. Nevertheless, in my view it was unreasonable for the appellant to continue to challenge the need for affordable housing provision in the face of all the evidence presented. I consider that this resulted in the Council incurring unnecessary expense. I therefore consider a partial award of costs is justified.

Formal Decision and Costs Order

25. In exercise of my 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 powers enabling me in that behalf, I hereby order that Haven Developments Limited shall pay to East Hertfordshire District Council the costs of the appeal proceedings limited to those costs incurred in preparing for and dealing with the affordable housing issues at the Inquiry, such costs to be assessed in the Supreme Court Costs Office if not agreed. The proceedings concerned an appeal under Section 78 of the Town and Country Planning Act, as amended, against the refusal to grant outline planning permission for 6 one-bedroom apartments with car parking and ancillary works at 1 Hawkins Hall Lane, Datchworth, Hertfordshire SG3 6TF.
26. The applicant is now invited to submit to Haven Developments Limited, 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 Supreme Court Costs Office is enclosed.

Malcolm Rowe

Inspector



Appeal Decision

Site visit made on 27 January 2009

by **Martyn Single DipTP MRTPI**

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

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Decision date:
11 February 2009

Appeal Ref: APP/J1915/A/08/2083256

6c Broad Green Wood, Bayford, Herts, SG13 8PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Ward against the decision of East Hertfordshire District Council.
- The application (Ref 3/08/0777/FP), dated 23 April 2008 was refused by notice dated 27 June 2008.
- The development proposed is a single storey rear extension & two storey side extension to existing house.

Decision

1. I dismiss the appeal.

Reasons for Decision

2. The appeal property is one of a group of dwellings within a wooded setting. Bayford is a Category 2 village where, by virtue of Policy ENV5 of the East Herts Local Plan Second Review April 2007, extensions to existing dwellings will be granted planning permission provided that certain criteria are met. Although I note that the appellant considers the property to be within the village it is, in my view, such a distance outside the main settlement that I believe that the second part of the Policy applies. This provides that in such locations extensions to dwellings will be expected to be of a scale and size that would not disproportionately alter the size of the original dwelling nor intrude into the openness or the rural qualities of the surrounding area. This, together with Green Belt Policy GBC1, aligns with the approach required by Government policy in Planning Policy Guidance Note 2 *Green Belts* (PPG2). PPG2 advises that there is a general presumption against inappropriate development.
3. Consequently, the first main issue in this appeal is whether the proposal would be inappropriate development in the Green Belt. If inappropriate I have to consider whether any very special circumstances have been advanced by the appellant to outweigh its harm to the Green Belt by reason of inappropriateness, or any other harm. A second main issue is the effect of the proposal on the openness of the Green Belt and the character and appearance of the estate having regard to its scale, siting and design.
4. PPG2 indicates that development plans should make clear the approach that

local planning authorities will take in deciding whether an extension would be disproportionate to the original. Some Councils provide a percentage figure above which an extension is considered to be disproportionate. Paragraph 8.9.2 of the supporting text to the East Herts Local Plan, however, says that it is not possible to state categorically what maximum size of extension is likely to be permissible. An assessment consequently has to be made in each case depending on the nature of the existing dwelling, in this case one of a number of similar semi-detached properties apparently once associated with an agricultural estate.

5. The Council advises that the extension would amount to a 72% increase on the floorspace of the original dwelling, a figure not challenged by the appellant who points out that other dwellings on the estate have been increased by more than 70%. On my visit I saw that roughly half of the twenty or so properties had been extended to varying degrees. I do not know the circumstances relating to those extensions, when they took place or what policies were current at the time of planning permission being granted. However, in respect of the present appeal, from my experience I regard a 70% extension as amounting to a very substantial one on a semi-detached dwelling of this size. I conclude that a percentage increase of this size cannot be considered to be a limited extension to the dwelling. It would be a disproportionate addition and inappropriate development.
6. Inappropriate development is, by definition, harmful and the onus is on an appellant to demonstrate very special circumstances to justify why planning permission should be granted. Other than referring to other extensions on the estate the appellant has not put forward any matters specifically for my consideration as very special circumstances. Very special circumstances sufficient to outweigh the harm that would be caused, by reason of its inappropriateness in the Green Belt have not been demonstrated to exist.
7. Turning to the second main issue PPG2 identifies openness as being the most important attribute of Green Belts. This applies as much to this situation within an existing group of dwellings as it does in more open countryside. The property does not appear to have been extended before, having a ridged roof together with a two storey gable at the rear containing the kitchen and a bedroom. Properties on the estate are generously spaced although some have been extended at the side. The flank wall of no. 6c is some six metres or so from the site boundary with the adjoining dwelling no. 6d, although part of this space is occupied by a single garage. The proposal would add an extension to the side of the dwelling that would equate to more than half the width of the existing dwelling, bringing its flank wall to 1.5 metres from the boundary.
8. I viewed the site from several positions and it was apparent that the gap at the side of the dwelling is fairly open giving a view through to the woodland behind. An extension of this size and scale would, when viewed from a very short distance to the west, merge with the side wall of no. 6d, closing off this gap. It would, in my judgement, obscure the views to the trees behind and would seriously harm the openness of the Green Belt and be contrary to Local Plan Policies GBC1 and ENV5.

9. I acknowledge that other dwellings in Broad Green Wood have two storey side extensions but these are wholly different to the form of development proposed. I found the impact of most of them in the street scene to be acceptable. None that I saw extend as close to the side boundary as this proposal and continue to afford a sense of spaciousness to the estate. Furthermore, whilst I note that the Council's submissions suggest that the main objection relates to the rear extension, I firmly believe that this proposal ought to have followed the design philosophy of some of the other extensions whereby first floor accommodation on the front is provided by the inclusion of dormer windows. This would assist in retaining a degree of consistency in the estate without stifling individual design.
10. To the rear, whilst not evident in the street scene, I find the addition of a further gable to the master bedroom to unbalance the proportions of the dwelling. Overall I do not find that the extension would provide the high standard of design now required by local and national policy. It would not relate well to the existing dwelling or the estate as a whole. I note that an amendment is suggested to the single storey element at the rear but this does not affect my decision as it does not address the main deficiencies of the scheme. I conclude that the proposal would be of such a scale, siting and design that it would have an adverse impact on the openness of the Green Belt and the character and appearance of the estate contrary to Policies GBC1, ENV5 and ENV6 of the East Herts Local Plan Second Review April 2007.

Martyn Single

INSPECTOR



Appeal Decision

Site visit made on 2 February 2009

by Peter Eggleton MRTPI

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

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Decision date:
19 February 2009

Appeal Ref: APP/J1915/A/08/2083784

69 Marguerite Way, Bishop's Stortford, Hertfordshire CM23 4NE.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Anne Morris against the decision of East Herts Council.
- The application Ref 3/08/0804/FP, dated 21 April 2008, was refused by notice dated 26 June 2008.
- The development proposed is a single storey rear extension.

Decision

1. I allow the appeal and grant planning permission for a single storey rear extension at 69 Marguerite Way, Bishop's Stortford, Hertfordshire in accordance with the terms of the application, Ref 3/08/0804/FP, dated 21 April 2008 and the plans submitted therewith, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

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

Reasons

3. The proposed rear addition would extend across the full width of the rear of the property and have a substantial depth, particularly along its north facing elevation. However, despite its substantial footprint, it has been designed with a low pitched and hipped roof which would limit its overall bulk. It would be set-in from the boundaries and would not have any significant impact on the adjacent residents. Overall, its design and fenestration would not be out of keeping with the main property. It would be a clearly distinct element from the main two storey form of the house, but it would not be harmful to its appearance, nor would it detract from the character of the wider area. I do not find any conflict with the design aspirations of Policies ENV1, ENV5 or ENV6 of the Local Plan.

4. I have not found there to be any matters that weigh significantly against this proposal. I therefore allow the appeal. I have included a condition regarding materials to ensure that the development would have a satisfactory appearance. I have not included the condition suggested by the Council seeking to control the insertion of further windows, as I have not been persuaded that such a constraint would be necessary.

Peter Eggleton

INSPECTOR



Appeal Decision

Site visit made on 21 January 2009

by **N R Taylor** BSc CEng MICE MIHT

an Inspector appointed by the Secretary of State
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Decision date:
11 February 2009

Appeal Ref: APP/J1915/A/08/2086386

46 Fanshawe Crescent, Ware, Hertfordshire SG12 0AS

- 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 David Bentley against the decision of East Hertfordshire District Council.
- The application Ref 3/08/0826/FP, dated 29 April 2008, was refused by notice dated 16 July 2008.
- The development proposed is described as a single storey conservatory with 750mm brickwork from DPC, 18mm UPVC double glazing 25mm polycarbonate roof.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue is the likely impact of the development on the character and appearance of the existing building and adjoining dwellings.

Reasons

3. The appeal property is an inner dwelling of a block of 4 terrace houses located in a residential area of Ware. The property has an existing ground floor extension as have the adjoining properties, Nos 44 and 48. Those of No 44 and the appeal building are of a similar depth. The rear extension of No 48 extends some 1.6 metres further in depth than that of No 46.
4. The effect of the development would be to construct a conservatory to the rear of the existing ground floor extension over a part of the rear elevation. It would project approximately 3.1 metres beyond the existing rear elevation of the ground floor and to a width of about 3.9 metres from the boundary with No 48. It would thus project some 1.5 metres beyond the rear elevation of No 48 and result in a cumulative rear extension of around 5.5 metres from the original rear elevation of the property.
5. Whilst I have noted the appellant's comments concerning the amount of additional floor area that the development would provide, this cumulative addition to the original dwelling would, in my view, represent a significant increase to the property at ground floor level compared to the upper floor. I consider that this would result in an unbalanced form of building which would be totally unsympathetic and out of keeping with the character and appearance of the original house and the adjoining dwellings.

6. I have noted the comments concerning the circumstances of extensions at No 48 and that the development would be in materials to match existing windows, however these do alter my opinion on the harm that the development would cause. I have therefore formed the view that the harm would not be justified by any benefit which the development would provide and that it would conflict with Policies ENV1 and ENV5 of the East Herts Local Plan Second Review April 2007 which seek to ensure that extensions to existing buildings are of a high standard of design and layout and that the character and appearance of the dwelling and any adjoining dwellings are not significantly affected to their detriment.
7. For the reasons given above I conclude that the appeal should be dismissed.

NR Taylor

INSPECTOR



Appeal Decision

Site visit made on 2 February 2009

by **Peter Eggleton MRTPI**

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

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Decision date:
19 February 2009

Appeal Ref: APP/J1915/A/08/2084600

7 Matching Lane, Bishop's Stortford, Hertfordshire CM23 2PP.

- 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 Marcus Bull against the decision of East Herts Council.
- The application Ref 3/08/0895/FP, dated 14 May 2008, was refused by notice dated 23 July 2008.
- The development proposed is a side extension.

Decision

1. I dismiss the appeal.

Issue

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

Reasons

3. Matching Lane is characterised by the mature gardens and abundant trees which ensure that it is dominated by the landscaping rather than the built form. The driveway to number 7 runs-off the head of the cul-de-sac and the house is clearly evident in the street scene, as is the property beyond it, number 8. This increase in urban form within the public realm is noticeable but given the amount of vegetation that exists, it does not significantly alter the character of the area.
4. The proposed forward projecting extension would significantly increase the prominence of the built form of this dwelling. It would screen the side extension of the adjacent property but it would also be substantially more prominent. It would result in the loss of the hedge and extend close to an existing garden tree, although I appreciate that these are not protected. I accept that the design of the proposal has been carefully considered and it would form a point of interest at the end of the cul-de-sac. However, it would appear as a substantial building in a location that would not be in keeping with the general form of development. I consider that it would be too large and prominent to be assimilated into the general landscape framework of the road and its design and form would not be of such quality that a departure from the prevailing character would represent a positive change in the environment. I do not consider that the appearance of the side elevation of the neighbouring

property is such that it needs to be screened in such a fashion. Furthermore, I am not satisfied that the size and shape of the site would adequately accommodate such a scale of development without it appearing cramped. This concern also relates to the juxtaposition of the extension with the property to the rear. Overall, I find that it would be inconsistent with and harmful to the general character of the area.

5. I acknowledge that careful consideration has been given to the materials, the overall form and the design detailing of the extension in order that it would add interest to the front of the property and the head of the cul-de-sac. However, despite its design, I consider that it would result in an over-dominant feature that would be out of keeping with the general character and appearance of the area. I do not find that my concerns in this regard would be outweighed by the positive aspects of the proposals design and location. Whilst it satisfies some elements of the Council's policies that relate to design and in particular extensions, I find that it would be contrary to Policy ENV1 of the Local Plan as it would not safeguard the distinctiveness of the area or represent a compatible structure and layout. It would also fail to satisfy the element of Policy ENV5 which seeks to avoid detrimental impacts on the character and appearance of dwellings and neighbouring dwellings. I have considered all the matters put forward by the appellant, including the benefits it would bring in terms of additional accommodation. However, overall these matters are not sufficient to outweigh my concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR



Appeal Decision

Site visit made on 2 February 2009

by Peter Eggleton MRTPI

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Decision date:
19 February 2009

Appeal Ref: APP/J1915/A/08/2084105

67 Prestwick Drive, Bishop's Stortford, Hertfordshire CM23 5ER.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs D Adamo against the decision of East Herts Council.
- The application Ref 3/08/0985/FP, dated 28 May 2008, was refused by notice dated 23 July 2008.
- The development proposed is a single storey rear extension over the existing rear extension.

Decision

1. I allow the appeal and grant planning permission for a first floor rear extension at 67 Prestwick Drive, Bishop's Stortford, Hertfordshire in accordance with the terms of the application, Ref 3/08/0985/FP, dated 28 May 2008, and the plans submitted therewith, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

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

Reasons

3. The proposal would result in a first floor rear extension. I have amended the description to more clearly reflect this. The Council are concerned that the proposal would be out of character with the existing dwelling. The plans submitted as part of this proposal demonstrate that the main form of the building would be extended to the rear. Whilst this would increase the bulk of the side elevations, these would not be clearly apparent from the street and would not detract from the character or appearance of the building. Of more significance would be the two-storey element that would extend beyond the side of the main part of the house. This would be perceptible between this property and its neighbour above the single storey garage. However, the low height of the eaves and ridge would minimise its visual impact as would the

hipped roof which would result in a roof pitch that reflected that of the main house and the garage. Given its position to the very rear of the building, it would not alter the overall character of the property when viewed from the street. I find that its design and scale ensures that this part of the addition would have an acceptable appearance and would not materially alter the design quality of the property. I do not find any conflict with the design aspirations of Policies ENV1, ENV5 or ENV6 of the Local Plan.

4. I have not found there to be any matters that weigh significantly against this proposal. I therefore allow the appeal. I have included the condition suggested by the Council regarding materials to ensure that the development would have a satisfactory appearance.

Peter Eggleton

INSPECTOR



Appeal Decision

Site visit made on 20 January 2009

by **Edward A Simpson** JP BA(Hons)
MRTPI

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Decision date:
4 February 2009

Appeal Ref: APP/J1915/A/08/2085142

Land to the rear of 60 New Road, Bengeo, Hertford SG14 3JH

- 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 P Day against the decision of East Hertfordshire District Council.
- The application Ref 3/08/0988/FP, dated 19 May 2008, was refused by notice dated 19 August 2008.
- The development proposed is single storey detached two bedroom residential property.

Decision

1. I allow the appeal, and grant planning permission for single storey detached two bedroom residential property on land to the rear of 60 New Road, Bengeo, Hertford in accordance with the terms of the application, Ref 3/08/0988/FP, dated 19 May 2008, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 3) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
 - 4) Details of all boundary walls, fences or other means of enclosure shall be submitted to and approved in writing by the local Planning Authority prior to the commencement of the development. All such approved means of enclosure shall be erected prior to first occupation of the dwelling, and shall thereafter be retained.
 - 5) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the enlargement, improvement or other alteration of the dwelling hereby permitted as described in Schedule 2, Part 1, Class A of the Order shall