



Appeal Decision

Inquiry held and site visit made on
24 February 2009

by **B Barnett BA MCD MRTPI**

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

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Decision date:
12 March 2009

Appeal Ref: APP/J1915/X/08/2075268

The Bungalow, 20 Hailey Lane, Hertford Heath, Herts, SG13 7NU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development.
- The appeal is made by Haileybury School against the decision of East Hertfordshire District Council.
- The application Ref 3/07/1488/CL, dated 10 September 2007, was refused by notice dated 4 December 2007.
- The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is as a dwelling house (Class C3).

Summary of Decision: The appeal is allowed and a certificate is issued.

Preliminary matters

1. Although the application form refers to S191 of the Town and Country Planning Act 1990, the building was unused at the date of the application. The appellants seek a certificate to the effect that resumption of the previous residential use would be lawful and I have treated this as an application under S192.
2. The appeal relates to a timber building with an asbestos-cement roof, originally built as an army hut but later converted into a two bedroom bungalow. It was agreed at the inquiry that in 1979 it was being used lawfully as a dwelling and that since then it has been unoccupied and not used for any purpose, residential or otherwise. The main issue before me is whether residential use has been abandoned and the principal factors to consider in assessing this are the condition of the building, the intention of the owners, the period of non-use and whether there has been other use made of the building.
3. Evidence at the inquiry was given under oath.

The condition of the building

4. The building is in a poor state of repair. Some of the roof sheets are damaged. Some of the external timber cladding to the walls is missing and in places it is rotten. Some structural timbers in the walls or supporting the floor are rotten or partly missing. Window frames, doors and rainwater goods are all either missing or in need of replacement. Despite this, the structure of the building is intact and, for the most part, it appears to be wind and waterproof.

5. Internally, some of the wall linings are missing or damaged. In two places the floor is missing. The building is clearly uninhabitable. Nonetheless, it still has the appearance and character of a dwelling. The bathroom contains a bath, wc and basin although they are all damaged. There is a cooker and some kitchen furniture in the kitchen and other rooms also contain bits of domestic furniture, although again these are all damaged. I was told that gas, water and electricity are available but disconnected and I saw that some of the electrical wiring has been removed.
6. Evidence given on behalf of the appellants, which was not significantly challenged, is that the building is capable of repair. A considerable amount of work would be required to bring it back into a basic habitable condition and even more would be required to bring it up to the standard now required under Building Regulations. Almost every part of the building would need something doing to it. Some of the roof sheets would need replaced and the rest would need treated to extend their life. Various timbers would need repaired, supplemented or replaced. The interior wall linings would probably need replacing and ceilings and floors may also have to be renewed. Plumbing and electricians would have to be renewed.
7. Only when restoration is underway would it be possible to determine the full extent of work needed, but it is likely that this would essentially consist of repairs or improvements. It would not fundamentally affect the integrity of the building and, I was told, it would probably cost less than building a new dwelling of similar size.
8. The present state of the building is the result of neglect. In the years since it was last used no significant maintenance has been undertaken, although following problems with unauthorised access and vandalism, the doors and windows were boarded up.

The owners' intentions

9. In July 1978, the appellants entered into a farm tenancy agreement with Mr E C Smith in relation to land and buildings at Hailey Farm, including the building concerned in this appeal. This effectively gave Mr Smith possession and control of the building and, in appropriate circumstances, this control may pass on to members of his family.
10. Although the agreement required buildings on the holding to be kept in good repair and assigned responsibility for achieving this, there was provision for both the landlord and the tenant to be relieved of this responsibility where a building became 'redundant to the proper requirements of the holding'. The agreement expressly excluded the building with which this appeal is concerned from the repairing responsibilities of both landlord and tenant, describing it as 'redundant'.
11. Although this exclusion seems to indicate that the building was not then vital to the operation of the farm, it did not prevent it being used or repaired. For a short period after the agreement was signed the building was lived in by an agricultural worker and I have no reason to doubt Mr Smith's evidence that it would have been repaired and decorated if necessary and made available to the remaining farm worker if he had not already had accommodation nearby. I

do not see this agreement as indicating intent to give up permanently the residential use of the building.

12. Although no significant maintenance was done after 1979, this appears to have been at least in part because the building was not needed to accommodate a farm worker. The agreement prevented Mr Smith making it available to anyone else, so he had no incentive to maintain it. Also he appears to have been in dispute with the appellants about who should do any necessary work. His failure to carry out maintenance cannot be seen as indicating an intention that residential use should never be resumed even if the opportunity for this to occur arose. Indeed his evidence is that he had ideas of one day living there himself when he retired.
13. During the 1980's and 1990's, the appellants took action to make the building secure. Although this was done in part for safety reasons, it seems to me to indicate a continuing interest in maintaining the potential for reusing the building. If it had been intended that the building should never be lived in again, safety concerns could have been addressed by demolition or removal of potentially hazardous materials.
14. In 1994 they sought planning permission for a replacement building and were contemplating demolishing the present structure. That is still a possibility as the present appeal is clearly aimed at improving the prospects of securing permission for a replacement building. Although this may show a preference for redevelopment, it does not indicate that the idea of bringing the present building back into use has been abandoned. On the contrary, it shows recognition of the potential value of the land and building and a wish to protect and benefit from that value. I have no reason to doubt the appellants' evidence that, if they are unable to replace the building, they may restore it for use by student teachers or single members of staff and that it would be physically suitable for that purpose.
15. On the evidence before to me, it appears that in 1978, and for some time thereafter, both the owners and the tenant envisaged that the building would be used for residential purposes in association with the farm if a need for such use arose. From the mid-1980's both parties recognised the building's potential for renewed residential use and intended to keep this potential alive. That is why it was kept secure and why the possibility of planning permission for a replacement was explored. In the absence of an agricultural need, it was not possible to exploit this potential until the restrictive effects of the tenancy agreement had been overcome and this began to be addressed only about 2002. The delay in doing this was considerable. However, it was not excessive. Mr Smith's objection to the 1994 planning application supports evidence that for a long time relationships between the parties were strained and, given the size of the appellants' property portfolio, I accept that they had other priorities.
16. I conclude that there has never been an intention to abandon residential use of the building.

Conclusion

17. There is no evidence that the owner or the tenant ever took positive steps to make the building unsuitable for residential use and I am not convinced that

they ever intended to give up for ever the idea of using it as a dwelling. It has never been used for any other purpose. Although maintenance has been minimal, largely consisting of keeping it secure, the building has not been allowed to deteriorate to such an extent that its restoration and reuse as a dwelling are unrealistic. The period of non-use is considerable, but this is understandable having regard to the restrictive effect of the 1978 agreement and the other priorities of the appellants. Taking these factors together, I conclude that the residential use of the building has not been abandoned.

18. It follows that on the date of the application the resumption of that use would have been lawful.
19. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of use as a dwelling house (Class C3) was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Formal Decision

20. I allow the appeal, and I attach to this decision a certificate of lawful use or development describing the proposed use which I consider to be lawful.

B Barnett

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mr W Beglan	of Counsel
He called	
Mrs A Hutchinson BA MRTPI	Taylor Vintners, Merlin Place, Milton Road, Cambridge, CB4 0DP
Mr S W Urry LLB FCA	Governor, Haileybury School
Mr C Smith	College Farm, Hailey Lane, Hertford, SG134 7NX
Mr K Fuller MRICS	Bidwells, Trumpington Road, Cambridge, CB2 9LD

FOR THE LOCAL PLANNING AUTHORITY:

Mr C Ormondroyd	of Counsel
He called	
Ms H Summerfield BSc MA	Senior Planning Officer, East Hertfordshire District Council

DOCUMENT SUBMITTED AT THE INQUIRY

Document 1 Statement of Common Ground



Lawful Development Certificate

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TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE)
ORDER 1995: ARTICLE 24

IT IS HEREBY CERTIFIED that on 10 September 2007 the use described in the First Schedule hereto in respect of the building specified in the Second Schedule hereto and shown within the land edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The building was being lawfully used as a dwelling in 1978 and that use has not been abandoned or superceded.

B Barnett

INSPECTOR

Date: 12.03.09

Reference: APP/J1915/X/08/2075268

First Schedule

Use as a dwelling house (Class C3)

Second Schedule

The Bungalow, 20 Hailey Lane, Hertford Heath, Herts, SG13 7NU

CERTIFICATE OF LAWFULNESS FOR PLANNING PURPOSES

NOTES

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, would not have been liable to enforcement action, under section 172 of the 1990 Act, on that date.
3. This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.
4. The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness



Plan

This is the plan referred to in the Lawful Development Certificate dated: 12.03.09

by **B Barnett BA MCD MRTPI**

**The Bungalow, 20 Hailey Lane,
Hertford Heath, Herts, SG13 7NU**

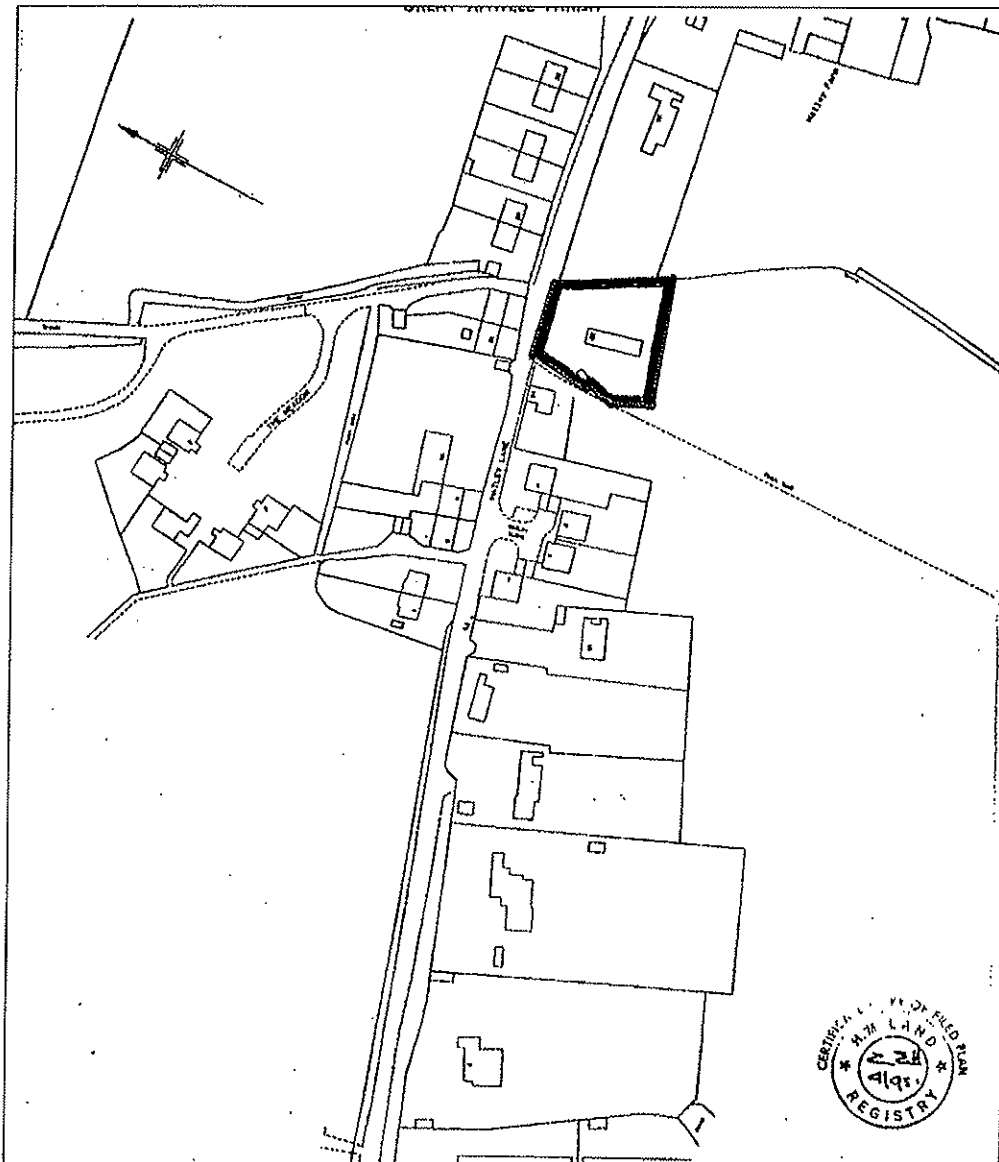
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Scale: not to scale

Reference:

APP/J1915/X/08/2075268





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:
4 March 2009

Appeal Ref: APP/J1915/A/08/2078463

1 Chalk Hill Cottages, Albury, Ware, Herfordshire SG11 2LF.

- 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 Croxford against the decision of East Herts Council.
 - The application Ref 3/07/2272/FP, dated 26 October 2007, was refused by notice dated 21 December 2007.
 - The development proposed is a domestic extension on two levels, providing one reception room and one bedroom.
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Decision

1. I dismiss the appeal.

Main Issue

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

Reasons

3. Permission was granted for a two-storey side extension in August 2008. This is an important material consideration with regard to this appeal. In terms of scale, the current proposal would have a two storey side addition that would only be marginally wider than the approved extension. I do not consider that this difference would be perceptible in views of the property. This proposal includes an additional small single storey side element which would not add significantly to the size or bulk of the property. It would also include a rear two storey addition which although not increasing the floor space significantly would add to the bulk of the property, although I appreciate that views of the rear and side elevations would be limited. Both the approved scheme and that now proposed would substantially increase the size of the original dwelling. Both schemes would result in a scale of development that would have little resemblance to the scale of the original cottage. However, this general increase has been accepted by the permitted scheme. Whilst Policy ENV5 of the Local Plan requires that developments do not disproportionately alter the size of the original dwelling and Policy GBC3 only accepts limited extensions in areas such as this, this proposal would be only marginally greater in size than that already approved. It would also result in a property of similar scale to the attached and extended cottage. Whilst the proposal would not satisfy the
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development plan requirements, these considerations are such that I do not find that allowing this proposal would further prejudice the policy position.

4. The designs of the two proposals do differ significantly. The approved scheme would continue the form of the main dwelling, resulting in a single unrelieved front elevation and roof form. This would be in keeping with the alterations to the adjacent property. I consider that this approach, although not respecting the scale of the original property, would retain its simple design characteristics, which are an equally important consideration. This proposal would take a different approach. The roof height of the extension would be lower than that of the existing dwelling and the front elevation would be stepped back. This approach is often adopted to reduce the perceived scale and prominence of extensions and to ensure that the design characteristics and proportions of the original building are retained. I note the example of Hall Cottage provided by the appellant. In this case, I find that the detail of the side addition would be of little architectural interest and whilst it would be subservient in terms of its visual appearance, I consider that its lack of detail would increase the perception of its bulk, particularly given its prominent location. I also find that the detailing would have little relevance to that of the main house.
5. The rear addition would introduce a new design element which although mimicking the form of the two matching stair wells, would result in a cluttered rear elevation which would detract from the important simple form and character of the property. Whilst I do not have concerns with regard to the single storey side extension, overall, the design proposed would not complement that of the existing property or its neighbour. I also find that the approved development would have a more acceptable appearance and would be more successful in retaining the important design characteristics of this pair of dwellings. I consider that the proposal would be contrary to Policy ENV6 which seeks matching or complementary designs for extensions. It would also fail to satisfy *Planning Policy Statement 1: Delivering Sustainable Development* (PPS1) as in addition to requiring high quality design, it is also clear that developments that fail to take the opportunities available for improving the character and quality of the area should be resisted. I do not find anything in the Council's Supplementary Planning Document: *Landscape Character Assessment* that would lead me to a different view.
6. I have considered all the matters put forward by the appellant, including the benefits of the additional accommodation, the principle behind the design approach and the context and setting of the property, including the availability of views towards it. However, I do not find that there are any matters that outweigh my concerns with regard to the overall design. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR



Appeal Decision

Site visit made on 9 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:
27 February 2009

Appeal Ref: APP/J1915/A/08/2085037

Dellows, Ginns Road, Stocking Pelham, Hertfordshire SG9 0JA.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr J Niehorster against the decision of East Herts Council.
- The application Ref 3/08/0126/FP, dated 21 January 2008, was refused by notice dated 18 March 2008.
- The development proposed is double storey extensions to front and rear and internal alterations.

Decision

1. I allow the appeal and grant planning permission for double storey extensions to front and rear and internal alterations at Dellows, Ginns Road, Stocking Pelham in accordance with the terms of the application, Ref 3/08/0126/FP, dated 21 January 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 dwelling.

Main Issue

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

Reasons

3. The property is a large detached house located in extensive grounds in the countryside. The main public views of the property are from the road whilst approaching from the north-east. Other views are less prominent given the screening provided by the mature vegetation. The house is currently orientated with its rear elevation facing the access to the property. This proposal would include an entrance feature and two gables to this elevation. These elements would significantly improve the appearance of the dwelling. A two storey extension would be included to what is currently the front elevation. This would increase the bulk of the property when viewed from the east. There are only very limited views of this elevation through the trees from the road.

In any event, I find that the small set-back of the two storey element and the substantial chimney would visually break up the scale of this elevation. I consider that this element of the design would be satisfactory. Overall the proposal would enhance the character and appearance of the property.

4. The Council are concerned that the additions would substantially increase the size of the dwelling. I do not agree with the appellant that the additions could be described as small or modest. In terms of their physical dimensions they represent large areas of new floor space. However, when considered in the context of the overall scale of the dwelling, they would not dominate the existing built form and would respect the proportions of the building. Policy ENV5 of the Local Plan is clear that extensions should not be of a scale or size that would disproportionately alter the size of the original dwelling or intrude into the openness or rural quality of the surrounding area. I am satisfied that the scale of these proposals would be commensurate with the scale of the dwelling. They would not reduce the openness of the area and they would actually improve the appearance of the dwelling.
5. Policy GBC3 defines appropriate development in the rural area beyond the Green Belt. Limited extensions or alterations to existing dwellings that are in accordance with Policy ENV5 are considered to be appropriate. Given my findings above, I am satisfied that this proposal constitutes appropriate development. It therefore satisfies this policy. It does not conflict with Policy GBC2 as this relates to inappropriate development.
6. The dwelling originally had an agricultural tie and the Council's second reason for refusal related to the proposed scale of the dwelling in relation to the agricultural needs of the holding. A Certificate of Lawful Use or Development has now been issued which effectively removes the tie. This concern is therefore no longer relevant.
7. Overall, I find that the additions proposed would be proportionate to the scale of the house and would enhance the character and appearance of the property. I consider that they satisfy the development plan policies in this regard. I do not consider that there are any matters that weigh significantly against the proposal. Given the clear benefits, I allow the appeal. I have included a condition requiring that the materials match those of the existing house to ensure that the additions would have a satisfactory appearance.

Peter Eggleton

INSPECTOR



Appeal Decision

Site visit made on 9 February 2009

by **Peter Eggleton MRTPI**

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

Appeal Ref: APP/J1915/A/08/2084429

30 High Street, Stanstead Abbots, Hertfordshire SG12 8AE.

- 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 Melanie Morel against the decision of East Herts Council.
- The application Ref 3/08/0251/FP, dated 7 February 2008, was refused by notice dated 25 March 2008.
- The development proposed is the change of use from a dwelling house to a beauty salon.

Decision

1. I allow the appeal and grant planning permission for the change of use from a dwelling house to a beauty salon at 30 High Street, Stanstead Abbots in accordance with the terms of the application, Ref 3/08/0251/FP, dated 7 February 2008, and the plans submitted therewith.

Main Issue

2. The main issue is the effect of the proposal on the vitality and viability of the commercial centre.

Reasons

3. The property is already in use as a beauty salon. The commercial area of Stanstead Abbots, as defined by the Local Plan (LP), is made up of a number of small rows of shops, generally along the High Street. These areas are not however continuous and gaps, incorporating housing, lie between them. This property falls within one of these gaps so although situated in the heart of the commercial centre it does not form part of a shopping frontage. The Council consider that the loss of this dwelling to a beauty salon would be contrary to Policy STC5 of the LP. The policy seeks to prevent conversions if such premises are suitable for continued residential occupation. I found this property to be entirely suited to residential use and therefore the proposal would be contrary to this policy.
4. Policy STC5 is part of the *Shopping and Town Centres* section of the LP. The supporting statement to the policy explains that it is important to retain the vitality of town centres including the advantages of establishing and maintaining residential accommodation above retail units. The policy makes no reference to dwellings such as this and appears to be generally directed at the

loss of residential accommodation above shops. The general introduction to the LP section entitled *Smaller Centres*, which includes this settlement, explains that these centres provide a range of shopping and other services to their populations and advises that the Council is committed to maintaining their vitality and viability. It encourages new retail provision within the main commercial areas provided it is of an appropriate scale and retains the physical compactness of the centre. Policy STC4 encourages a range of shops, services and food related uses in the identified commercial frontages, which this site falls between.

5. Although contrary to Policy STC5, this policy does not appear to be primarily directed at situations such as this. Furthermore, the provision of a service use in an area between two existing frontages would appear to support the vitality and viability of the centre. It has not been suggested by the Council that this use would undermine the existing frontages, although this has been raised as a concern by a third party. From my inspection, I did not find there to be a large number of vacancies within the commercial sections of the High Street. In any event, Policy STC4 seeks to limit the change of use from shops to non-shop uses. In these circumstances, I am not satisfied that the loss of a dwelling would undermine the policies relating to small commercial centres and I have no evidence to suggest that it would make a contribution to undermining general housing provision policies. I do not find that the proposal would result in any significant harm to the policy framework.
6. Concerns have been raised with regard the potential for an increase in demand for parking. The Highways Officer does not consider this to be an issue and I am satisfied that the small scale of this business would not significantly alter the current situation. I consider that the proposal would provide a complementary facility to the existing commercial uses whilst providing additional, although limited, employment opportunities. In conclusion, I have not been convinced that the proposal would result in any significant harm, despite its failure to meet the requirements of Policy STC5. I find that the benefits of the proposal would outweigh the policy concern and I therefore allow the appeal. I have not imposed conditions as the use has commenced and no other controls have been suggested or appear to be necessary.

Peter Eggleton

INSPECTOR



Appeal Decision

Site visit made on 9 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:
27 February 2009

Appeal Ref: APP/J1915/A/08/2086662

87 to 89a Railway Street, Hertford, Hertfordshire SG14 1RP.

- 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 Parkhall Property against the decision of East Herts Council.
- The application Ref 3/08/0362/FP, dated 22 February 2008, was refused by notice dated 7 May 2008.
- The development proposed is eight 2-bedroom apartments; one ground floor commercial unit; and one 3-bedroom town house.

Decision

1. I dismiss the appeal.

Main Issues

2. The main issues are whether the proposal would preserve or enhance the character or appearance of the conservation area; and the effect of the proposal on the living conditions of adjacent residents with regard to privacy.

Reasons

3. Permission has been granted for a development of similar scale in this location and this is an important consideration. The site is within the conservation area which covers much of the central area of Hertford. The differences between this and the approved scheme, in terms of the main issues, are the change in roof form and design; the change in detail with regard to the St Johns Street side elevation; and the introduction of a third floor roof terrace and third floor rear windows.
4. I do not consider that the mansard roof design would be out of keeping with the style of the proposed building or other buildings in the area. However, although it would be similar in height to the main ridge of the approved building and lower than the approved tower feature, the mansard roof would significantly increase the perception of the bulk of the building and result in an over large mass of relatively unrelieved development. The approved corner tower would be a very prominent element in the street scene and I am not entirely convinced that it would have sufficient design interest to justify its height and prominence. However, the perceived mass of the approved three storey elements would be more in keeping with the surroundings and would relate better to the nearby properties, including the proposed town house.

Neither scheme would detract significantly from the listed Dolphin building but I do consider that overall the street scene would be improved more by the approved scheme than the current proposal due to the greater articulation and more limited perception of mass and bulk.

5. The lower roof form of the third floor terrace would be necessary in order to respect the scale of the properties in St Johns Street. However, the lack of a matching mansard roof in this location would result in a poor relationship with the main roof form. This would not complement the overall form and appearance of this side elevation. Although the ridge height of this element of the approved scheme would be higher, the eaves would be lower. The perception of mass would be similar but the design of the now proposed scheme would not achieve the design cohesion of the approved plans. Furthermore, at ground floor level, the addition to accommodate the toilets and the bin store together with the proposed entrance would not combine to provide an attractive frontage. This façade is extremely important due to the corner location and the long views toward it. I consider that it would fail to take the opportunities available for achieving a high quality frontage and I find that it would detract from the overall character of the building. In this respect, although I have reservations with regard to the scale of the corner element of the approved scheme, it would have a significantly more attractive side elevation that would more successfully take account of the important corner location. The proposed side elevation would detract from the overall development and would fail to take the opportunities available for enhancing this corner. It would not preserve or enhance the character or appearance of the conservation area.
6. In terms of design, I consider that the proposal would fail to satisfy the design aspirations and conservation area requirements of Policies ENV1 and BH6 of the Local Plan. It would also fail to satisfy *Planning Policy Statement 1: Delivering Sustainable Development* (PPS1) which is clear that good design should add to the overall character and quality of the area. It also seeks to resist designs that fail to take the opportunities available for improving the character and quality of the area which I find to be a shortcoming of this proposal. Whilst I consider that the approved scheme would also have shortcomings, on balance, it would result in a superior development due to its treatment of the side elevation and the generally reduced perception of its overall mass.
7. The proposal would introduce windows that would look towards the rear gardens of properties in St Johns Street. The third floor roof terrace would also offer such views from a relatively short distance. I consider that the terrace would unacceptably reduce privacy for residents whilst in their rear garden and the existing boundary, garden building and proposed planting would not significantly alter this, particularly in the short term. However, I agree that this overlooking could be controlled by measures to prevent downward views from this terrace. The proposal would have more windows on the rear elevation in the area below the terrace than the approved scheme. The second floor windows would serve a living room rather than the approved bedroom. Whilst this may allow for greater use of this room and increase overlooking, I do not consider that this change would materially alter the living conditions of

the nearby residents when compared with the impact of the approved scheme. Similarly, this proposal would introduce third floor windows to the development but given that there are balconies and living room windows at second floor level in both this and the approved scheme, I do not consider that the third floor windows would materially change the levels of privacy enjoyed within the gardens of the adjacent properties. Overall, I consider that overlooking would be increased, but subject to measures to control the outlook from the roof terrace, the living conditions of the near-by residents in St Johns Street would not be reduced to an unacceptable level. In this respect the proposal would not be contrary to the element of Policy ENV1 which seeks to protect the amenities of neighbouring residents.

8. The Council advise that their initial concern with regard to sustainable transport has now been overcome. Parking concerns have however been raised as a concern by third parties. I found this site to be in a very central location, close to facilities and services and the public transport network. Given this location, I found the parking provision proposed for the residential element of the scheme to be appropriate. I share the concerns of the local residents however with regard to the parking and access arrangements for the ground floor accommodation. However, given my main findings, this is not a matter on which my decision would turn.
9. I acknowledge the increase in efficiency of the use of the site and the benefits of the provision of both residential and commercial opportunities, particularly given the historic uses of the site. I have also considered the other matters put forward by the appellant in support of the proposal such as the potential for solar panels and the proposed improvements to the public domain. However, I conclude that overall this proposal would be less acceptable in terms of design detail and overall perceived mass than the approved scheme. I accept that there are elements of this proposal that would be preferable to the approved scheme and there are also other matters that weigh in favour of this development. However, on balance these matters are not sufficient to outweigh my concerns that the proposal would fail to preserve or enhance the character or appearance of the conservation area and would result in a less acceptable development than the scheme already permitted. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR



Appeal Decision

Site visit made on 10 March 2009

by **Philip Willmer** BSc Dip Arch RIBA

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

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Decision date:
17 March 2009

Appeal Ref: APP/J1915/A/08/2090685

48 High Street, Buntingford, Hertfordshire, SG9 9AH.

- 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 Brooke Brothers Retirement Benefit Scheme against the decision of East Hertfordshire District Council.
- The application Ref 3/08/0477/FP, dated 11 March 2008, was refused by notice dated 20 May 2008.
- The development proposed is change of use from residential flat to B1 offices.

Decision

1. I dismiss the appeal.

Main Issue

2. I consider the main issue to be whether the change of use to B1 would result in the loss of a viable residential unit in the town centre contrary to the policy of restraint for such proposals in the Local Plan, having regard to the material considerations advanced in this case.

Reasons

3. The appeal property, number 48 High Street, is a two storey detached property listed grade II within the Buntingford Conservation Area. The ground floor is currently a betting shop. Although I saw that the first floor is in use as an office the appellant seeks a change from C3 residential to that B1 office use.
 4. There are no physical alterations proposed either internally or externally. The proposal, therefore, would have no impact on either the listed building or the conservation area in which it is located.
 5. Policy STC5 of the East Herts Local Plan Second Review April 2007 (LP) states that planning permission for the conversion of existing vacant or occupied dwellings into commercial uses will be refused where such premises are suitable for continued or renewed residential occupation. The Council goes on to set out various criteria that will be taken into account when considering such changes of use.
 6. In respect of LP Policy STC5 criteria (a), (b) and (c), in terms of the standard of accommodation, provision of separate access and outlook, the appellant advances no evidence to suggest, contrary to the view taken by the Council, that the original self-contained flat was other than satisfactory in these respects. From my observations I have no reason to form a different view to the Council. I shall therefore now consider each of the other criteria in turn.
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7. *Criterion (d) arrangements for parking and/or access to, and availability of, passenger transport:* The appellant suggests that public transport links are limited. Further, that there is no on-site or off-street parking nearby, the nearest place to park being the public car park. However, they feel that parking tariffs there are impractical for residential occupiers.
8. From what I saw Buntingford is a small market town that appeared to have a full range of services and facilities. The appeal site is located in the centre of a vibrant retail high street. In addition to a small supermarket opposite the site, there are a full range of other small retail outlets in easy walking distance. Notwithstanding the appellant's observations the flat, to my mind, is located in a sustainable location where limited car parking provision and transport links may not alone render this flat unattractive to continued residential occupation.
9. *Criterion (e) noise and nuisance:* While on site I noted that the sound of the televisions broadcasting horse races on the ground floor was audible at first floor level. In addition, I appreciate that the betting shop may be likely to attract a stream of customers through the day as well as into the evenings and weekends and this would add to the general level of noise and disturbance. However, this noise would, in my opinion, be just as disturbing to office workers as to residents of the first floor. Further, in my experience, with some ingenuity but without damaging the integrity of the listed building, airborne sound transmission could be reduced to an acceptable level.
10. *Criterion (f) economic considerations:* The appellant asserts that letting the premises would not be economically viable because of issues of noise and nuisance. However, the evidence on this matter is limited. In addition to having not explored the possibility of mitigation measures in respect of sound transmission, no marketing evidence has been provided in support of this assertion. Accordingly I can give this consideration very little weight.
11. *Criterion (g) security:* I appreciate that the street door is close to that of the betting office. However, the appellant does not explain why this would impact in any significant harmful way on security. In my opinion the proximity of the two street doors to each other would have little if any impact on the security of residential occupiers.
12. *Criterion (h) ability to ensure adequate refuse storage facilities:* If it were proposed to convert the first floor to a self-contained flat today it may well not have sufficient refuse storage to meet current requirements for recycling provision. However, the flat exists and, based on the limited evidence before me, I have no reason to conclude other than the previous occupiers of this modest flat did not address this issue other than in a satisfactory manner.
13. The flat does not have access to any private amenity space. However, this is not uncommon in town centre locations such as this. I appreciate that the proposed development would provide additional employment which, in itself, may add to the vitality and economic wellbeing of the town. However, I consider that permanent residential occupiers are likely to contribute just as much if not more to the viability and vitality of local shops, services and facilities. These further considerations, although material, do not therefore weigh heavily in favour of the proposed development.

14. I conclude in respect of the main issue that the proposal would result in the loss of a viable residential unit in a sustainable location contrary to the objectives of Government advice reflected in LP Policy STC5.
15. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed.

Philip Willmer

INSPECTOR



Appeal Decision

Site visit made on 9 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:
27 February 2009

Appeal Ref: APP/J1915/A/08/2083732

31 Currie Street, Hertford SG13 7DB.

- 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 Neil Proctor against the decision of East Herts Council.
- The application Ref 3/08/0560/FP, dated 26 March 2008, was refused by notice dated 20 May 2008.
- The development proposed is a dormer window as part of a loft conversion.

Decision

1. I dismiss the appeal.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the conservation area.

Reasons

3. The site lies within the conservation area which covers a substantial part of the central area of Hertford. This property is centrally located within a terrace of similar dwellings. The proposed dormer window would be to the rear and would be set-in from the sides of the property and from the eaves. It would however, be located high in the roof slope and would represent a large area of new glazing that would not be in keeping with the scale of the existing window detailing or follow its form or positioning. I also do not find that a box style design of this scale would respect the character of this property. The area of roof slope in which it would be located, is clearly visible in views over the existing garages from Albion Close. The terrace has a uniform, uninterrupted, rear roof form. This proposal would detract from this, introducing a feature that I consider would not be in keeping with the appearance of these properties. Furthermore, if repeated, the entire nature of the rear of this terrace would be unacceptably altered. I find that it would fail to preserve or enhance the character or appearance of the conservation area.
4. The proposal would not satisfy the requirement of Policy ENV6 of the Local Plan that roof dormers be appropriate to the design and character of the original dwelling. Although its size would be limited, given the scale of these properties, I consider that it would dominate the roof form. I also do not find that the proposal would satisfy the requirements of Policies BH5 or BH6 as it

would not be sympathetic to the character or appearance of the existing building or the terrace.

5. I have been provided with examples of existing roof structures and details of recent permissions for similar additions within the conservation area. The Talbot Street properties are modern buildings and the roof structures form part of their original design. I did not find that these had any similarities with this proposal. The small dormers at 25 Currie Street are located on a building of considerably greater scale and are themselves of more modest dimensions. These demonstrate a more appropriate form of roof addition to that currently proposed. The dormer to the rear of 28 Currie Street, is prominent in the street scene, but is located at the lowest point of the roof and appears to be significantly smaller than this proposal. I am not fully aware of all the circumstances that led to this addition, but I do not find that it represents a good reason for allowing this proposal. I have been provided with the approved plans relating to 5 and 6 Ives Road. Although the dormers would be of similar scale and design, the host properties are significantly different, having substantial two storey rear additions which hip into the main roof. The plans relating to 6 Currie Street provide the closest comparison with the current proposal. However, the rear of that property is not clearly visible from public vantage points and it would not therefore have a similar impact on the wider conservation area. I do not find the circumstances of any of the above cases to be entirely comparable with this proposal and whilst they do represent material considerations which I must take into account, I also have to consider this proposal on its own merits.
6. The acceptance by the Council of similarly designed dormer windows, particularly when associated with the same style of property, does weigh in favour of this proposal. I have also considered the other matters put forward in support of the development, including the improved accommodation that would result and the particular circumstances of the appellant. However, on balance, these matters are not sufficient to outweigh my concern that the proposal would fail to preserve or enhance the character or appearance of the conservation area. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR



Appeal Decision

Site visit made on 9 February 2009

by **Peter Eggleton MRTPI**

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Decision date:
27 February 2009

Appeal Ref: APP/J1915/A/08/2083771

13 Woodhall Close, Hertford SG14 3ED.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr J Durbin against the decision of East Herts Council.
- The application Ref 3/08/0890/FP, dated 13 May 2008, was refused by notice dated 8 August 2008.
- The development proposed is a garage and a two storey side extension.

Decision

1. I allow the appeal and grant planning permission for a garage and a two storey side extension at 13 Woodhall Close, Hertford in accordance with the terms of the application, Ref 3/08/0890/FP, dated 13 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, excluding those of the garage roof, shall match those used in the existing dwelling.
 - 3) No development shall take place until samples of the tiles to be used in the construction of the garage roof have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Main Issue

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

Reasons

3. The two storey side addition would be set back from the frontage of the property but would close the gap between this dwelling and its neighbour. However, given the layout of these properties and the additions that have already take place, any real perception of their being a gap between this and the adjacent dwellings, has already been lost. Although the gaps between the properties are no longer apparent, each property retains its individual character and design as the perceived terracing occurs to the rear of the dwellings. This

property is located in a corner position with a landscaped area between its front boundary and the road. It is not prominent in the street scene and it is substantially screened from longer views due to the existing vegetation. As the extension would be towards the rear of the property, it would not be clearly evident from the street and would not have any significant impact on the character or appearance of these dwellings or the wider area.

4. The garage building would replace an existing double garage. It would be set well back into the site and as such it would have a limited visual impact on the street scene. I consider that its low height and roof design would be entirely satisfactory. At present two cars could be accommodated in the existing garage with a further two on the driveway. This proposal would reduce this potential and provide for one parking space in the garage and a further parking space within the drive. I do not find that the use of the driveway for parking would be objectionable and I am satisfied that the proposal would provide adequate parking provision.
5. The proposal would not be contrary to Policy TR7 of the Local Plan as the parking provision would be satisfactory and would not exceed the maximum parking standards. Although the side extension would extend closer to the boundary than the guidance set out in Policy ENV6, as it would not result in an increase in perceived terracing, which this part of the policy seeks to avoid, I do not find that the proposal would undermine this element of the policy. Given its subordinate nature and design, I consider that it would generally satisfy the design aspirations of both Policies ENV6 and ENV1. I consider that the design and appearance of the garage would also satisfy the requirements of these policies.
6. I have considered all the matters put forward by the Council. However, given the lack of harm and the acceptability of the designs, I allow the appeal. As I am not familiar with the appearance of the roof tiles proposed for the garage, I have imposed a condition requiring that they be agreed with the Council. I have also required that all other materials match those of the existing dwelling. These conditions are to ensure that the development would have a satisfactory appearance.

Peter Eggleton

INSPECTOR



Appeal Decision

Site visit made on 9 February 2009

by **Peter Eggleton MRTPI**

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Decision date:
27 February 2009

Appeal Ref: APP/J1915/A/08/2087918

Woodlands, Springle Lane, Hailey, Hertford, Hertfordshire SG13 7NZ.

- 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 Danny Duggan against the decision of East Herts Council.
- The application Ref 3/08/1251/FP, dated 7 July 2008, was refused by notice dated 2 September 2008.
- The development proposed is a conservatory.

Decision

1. I allow the appeal and grant planning permission for a conservatory at Woodlands, Springle Lane, Hailey, Hertford in accordance with the terms of the application, Ref 3/08/1251/FP, dated 7 July 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 of the dwelling.

Main Issues

2. The main issues are whether the proposal would amount to inappropriate development within the Green Belt; whether there would be any other harm to the Green Belt; and 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 dwelling lies within the Green Belt. With regard to proposals such as this, Policy GBC1 of the Local Plan identifies that development in this area is inappropriate unless it is a limited extension or alteration to an existing dwelling in accordance with Policy ENV5. Policy ENV5 is clear that extensions should not be of a scale or size that would individually or cumulatively with other extensions, disproportionately alter the size of the original dwelling or intrude into the openness or rural quality of the surrounding area. These policies generally follow the guidance set out in *Planning Policy Guidance Note 2: Green Belts* (PPG2). Given the details I have, it is clear that the existing additions have resulted in a disproportionate increase in the size of the original dwelling. This proposal, although of limited size, would add to this increase.

The proposal clearly represents inappropriate development in the Green Belt and would be contrary to Policy ENV5.

4. There is a presumption against inappropriate development in the Green Belt. Such development can only be justified in very special circumstances and if the considerations in favour of the proposal clearly outweigh the totality of the harm arising from its inappropriateness and any other harm.
5. The proposed conservatory would be modest in scale and would be located within an existing patio area associated with the house. A large garage building has been erected close to the house and this proposal would be closely related to both buildings. The dwelling has a large garden which is well screened to all sides. I find that the proposal would have no impact on the wider area and would represent a very small addition in terms of the overall scale of development on the site. Its impact on the openness would be extremely limited. I find that there would be little or no harm other than that associated with inappropriate development and the failure to satisfy the requirements of Policy ENV5.
6. The property is located close to the A10 Motorway. The garden experiences considerable traffic noise from this major route. The noise is not so oppressive that the garden cannot be used for recreational purposes but it does significantly reduce its potential for quiet enjoyment, in an area that would otherwise be a relatively secluded countryside location. This proposal would offer the opportunity to sit within the garden without experiencing the noise. This is a very important consideration which weighs heavily in favour of the proposal. Furthermore, despite the Green Belt location, considerable new development has been accepted on this site. The house has been significantly extended and a closely related and substantial domestic garage with accommodation above has also been permitted and built. These developments appear to represent inappropriate development although I do not have all the details as to why they were accepted. However, given the scale of this proposal, I do not consider that it would result in any greater harm to the policy position. I consider that these matters clearly outweigh the harm from inappropriateness and the harm associated with the failure to comply with Policy ENV5. I also consider that they represent very special circumstances.
7. Given my findings above, I consider that the proposal would satisfy Policy GBC1 as this accepts inappropriate development in the Green Belt if very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness and any other harm. The proposal would also satisfy the similar requirements set out in PPG2. I therefore allow the appeal. The application details state that the window bars and the rendered brickwork would match those of the house. I have therefore imposed a condition to require this in order that the conservatory would have a satisfactory appearance.

Peter Eggleton
INSPECTOR