

a) 3/09/0770/FP - Replacement two storey dwelling and  
b) 3/09/0792/FP - Ancillary leisure outbuilding at 86 Bramfield Road,  
Datchworth, SG3 6SA for Mr D Lucas

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Date of Receipt: a) 20.05.09  
b) 22.5.09

Type: a) Full  
b) Full

Parish: DATCHWORTH

Ward: DATCHWORTH & ASTON

Reason for report: Contrary to policy

### RECOMMENDATION

- a) That planning permission be **GRANTED** in respect of application 3/09/0770/FP subject to the following conditions:-
1. Three year time limit (1T12)
  2. Levels(2E05)
  3. Complete accordance (2E10)
  4. Samples of Materials (2E12)
  5. Withdrawal of PD Rights Part 1 Class A (2E20)
  6. Withdrawal PD Rights Part 1 Class E (2E22)
  7. Tree retention and protection (4P05)
  8. Landscape design proposals (4P12) i), j), k), and l)
  9. Landscape Implementation (4P13)

### Directives

1. For the avoidance of doubt, the permission hereby granted does not relate to any basement proposed in respect of the replacement dwelling for which planning permission would be required.
2. Other legislation 01OL

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**Summary of Reasons for Decision**

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007) and in particular GBC1, HSG8, ENV1 ENV2 and TR7. The balance of the consideration having regard to those policies is that permission should be granted

- b) That planning permission be **GRANTED** in respect of application 3/09/0792/FP (ancillary leisure building) subject to the following conditions:-
1. Three year time limit (1T12)
  2. Samples of Materials (2E12)
  3. The building hereby permitted shall not be occupied at anytime other than for purposes ancillary to the residential use of the main dwelling house within the application site.

Reason: To ensure the Local Planning Authority retains control over any future residential development and in accordance with Policy GBC1 and ENV5 of the East Herts Local Plan Second Review.

**Directives**

1. Other legislation 01OL

**Summary of Reasons for Decision**

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review April 2007) and in particular GBC1, ENV1; ENV2; and ENV6. The balance of the considerations having regard to those policies is that permission should be granted.

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**1.0 Background**

- 1.1 The application site is shown on the attached OS extract. It is sited on the southern side of Bramfield Road facing open countryside and Bulls Green Woodland.

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- 1.2 The site currently contains the remains of the front façade and part sidewall of a two storey residential dwelling constructed in the 1940's. To the western boundary is a detached brick built double garage with slate tiled roof. A further single storey building, constructed in the same materials, is located further along the side of the hedgerow and tree boundary. This particular building is unauthorised and is the subject of current enforcement proceedings.
- 1.3 The remains of the dwelling are sited approximately centrally within the site which comprises a generous and well landscaped residential curtilage. The surrounding area is largely characterised by large detached dwellings of mixed design and materials, mostly traditional in their appearance.
- 1.4 The current proposal under application ref: 3/09/0770/FP is for a replacement dwelling of traditional design replicating the style of the original dwelling on the site, but also including two storey side extensions previously granted on appeal under references 3/05/0076/FP and 3/07/2438/FP, and a single storey extension granted under ref: 3/06/1065/FP. These had not been implemented prior to the demolition of the original dwelling but the permissions were still extant at that time.
- 1.5 The proposed replacement dwelling would have a hipped central roof form with a 'cat slide' roof with a dormer to each side, retaining the front two storey bay window, arched entrance and general fenestration pattern of the original house.
- 1.6 The proposed replacement dwelling is of a distinct design proposed with high quality materials to replicate the original dwelling and incorporates large areas of glazing, a mix of brick plinth, render finish, segmented arches and clay plain tiles.
- 1.7 The leisure building proposed under ref: 3/09/0792/FP is intended to replace the existing unauthorised outbuilding on the site which is the subject of current enforcement proceedings authorised by the committee. The proposed building would be smaller than the unauthorised structure which measures 19.3m x 6.2m in floor area. The proposed building would, by contrast, measure 13.0m x 6.2m with an alternative finish of brick plinth to match the proposed dwelling, black painted weatherboard to all elevations and with a slate roof and oak frame fenestration.
- 1.8 The site lies within the Metropolitan Green Belt.

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### **2.0 Site History**

- 2.1 A planning application submitted under reference 3/05/0076/FP for two storey extensions to the original dwelling was refused in February 2005 but granted at appeal November 2005.
- 2.2 The Planning Inspector commented that the house was significantly smaller than those in the general locality, while being within a plot that was much larger than most others in the area. Whilst he recognised that the proposed extensions would double the size of the house, he felt that the overall design would complement and indeed enhance the character and appearance of the dwelling. Furthermore, in view of the extensive mature landscaping and large plot, he concluded that the proposed extensions would not harm the openness of the Green Belt.
- 2.3 A further application was submitted in 2006 under reference 3/06/1065/FP for double and single storey side and rear extensions with a double garage. This was refused in July 2006 on the grounds of being contrary to policy RA2 and BE2 of the 1999 Local Plan due to the size, scale and massing of the additions.
- 2.4 A subsequent application 3/07/0159/FP for the demolition of the existing dwelling and the erection of a larger replacement dwelling with garage was refused in March 2007.
- 2.5 The reasons for refusal were:-
1. *The local planning authority is not satisfied that the existing dwelling is of poor appearance or construction and there is insufficient justification for the proposed development which would thereby be contrary to policy RA2 of the adopted Local Plan and policies GBC6 and HSG13 of the Local Plan Second review June 2005.*
  2. *The proposed development for a replacement dwelling by reason of its layout, size, scale massing and visually intrusive character and appearance would be unsympathetic to the context of the site and fails to take the opportunities available for improving the character of the area. The proposal is thereby contrary to policies RA2 and BE6 of the adopted Easy Hertfordshire Local Plan; Policy HSG13 of the East Herts Local Plan Second Review June 2005 and national planning guidance in PPS1 "Delivering Sustainable Development" para 24.*

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- 2.6 An appeal against this refusal was lodged in April 2007 but dismissed in August 2007. The inspector commented that the proposed replacement dwelling would have been well over 3m longer than the previous dwelling (and approved extensions) and would have 2 large projecting bays dominating both the north and south elevations. He concluded therefore that the proposed replacement dwelling would reduce the openness of the Green Belt and be more visually intrusive than either the original house or that together with the approved extensions.
- 2.7 A subsequent application was submitted in 2007 under ref: 3/07/2438/FP for 2 x two storey side extensions of the same general form as the extensions approved on appeal in 2005 but with an alteration to remove the single storey hipped and flat roof side extension with a chalet style roof extension with dormer on the western side of the dwelling to match the similar element on the eastern side. This application was granted planning permission on 17 January 2008.
- 2.8 In February 2008 an application was submitted for a Certificate of Lawful Use or Development for the construction of a double garage and a leisure outbuilding at the site under Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
- 2.9 During the consideration of this application however it became apparent that the two buildings were being constructed on site. At the time of the case officer's site visit the leisure building was up to eaves level and the garage partially constructed above base level. The application plans showed a building with a hall and three rooms labelled Gym; Guest bedroom with en suite a snooker room; and cinema - also with en-suite included.
- 2.10 The application for a certificate was refused on 22 May 2008 for the following reason:-
- The local planning authority is not satisfied that the building, by reason of its size, scale, design and nature of accommodation provided is required or intended for purposes incidental to the enjoyment of the dwelling house at 86 Bramfield Road. It does not therefore constitute "permitted development" under Class E of Part 1 to Schedule 2 of the Town & Country Planning (General Permitted Development) Order 1995.*
- 2.11 Officers accepted that the double garage proposed in that application would constitute "permitted development" and therefore not require planning permission.

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- 2.12 Notwithstanding this refusal, construction continued on both the garage and the leisure building and by September 2008 the buildings were substantially completed. At this time it was noted that the dwellinghouse itself had been substantially demolished and a basement excavated in the exposed ground area beneath where part of the house had been.
- 2.13 The matter was reported to the Development Control committee on 22 October 2008 when authorisation was given to take enforcement action in respect of the unauthorised leisure outbuilding. Authority was also delegated to the Director of Neighbourhood Services to take enforcement action against any replacement dwelling, or works for such a dwelling, on the site in the event that no application for planning permission was approved.
- 2.14 An application was received in November 2008 seeking permission for extensions to the property, together with a basement, (as an amendment of the previous permission granted under reference 3/07/2438/FP). The applicants were however advised that, as most of the dwelling had been demolished, it was no longer possible to consider an application for extensions to it and that they would need to apply for a replacement dwelling.
- 2.15 An enforcement notice was served in respect of the unauthorised outbuilding on 23<sup>rd</sup> December 2008. That Notice is now the subject of an appeal to the Planning Inspectorate. It had been due to be heard by way of a local inquiry on 21<sup>st</sup> July 2009 although the inquiry has been postponed pending the outcome of this application for a revised outbuilding. The applicant has indicated that if planning permission were to be granted for this smaller building, the appeal against the enforcement notice would be withdrawn and the revised building erected in place of the unauthorised one.
- 2.16 Subsequent meetings have been held between officers and the applicant's new agent in order to rectify the situation and to discuss a way forward as regards development of development on the site.
- 2.17 A planning application was requested by Officers for a replacement dwelling of the same size and scale of the original house together with the extensions previously approved. A separate planning application for the leisure outbuilding, reduced in scale, and with an altered, more sympathetic, external finish was also requested.
- 2.18 These discussions have resulted in the submission of the two applications before Members now.

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### **3.0 Consultation Responses**

3.1 County Highways has raised no objection to either of the proposals and states that there is ample space within the site for parking and turning of vehicles.

### **4.0 Parish Council Representations**

4.1 Datchworth Parish Council has no objections to the replacement dwelling but sought clarification on the cellar which they understand still to be in existence.

4.2 The Parish Council also raises no objection to the new outbuilding provided that it is not used for accommodation purposes.

### **5.0 Other Representations**

5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.

5.2 No representations have been received at the time of writing this report.

### **6.0 Policy**

6.1 The relevant policies of the East Herts Local Plan Second Review (April 2007) are:

SD1	Settlement Hierarchy
GBC1	Appropriate Development in the Green Belt
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV5	Extensions to dwellings
HSG8	Replacement Dwellings in the Green Belt and Rural Area Beyond the Green Belt.
TR7	Car Parking Standards

### **7.0 Considerations**

7.1 The determining issues in this case relate to whether the proposed development of the replacement dwelling and outbuilding accords with the relevant policies of the Local Plan and in particular Policies GBC1, HSG8 and ENV1 which relate to the appropriateness of the development in the Green Belt, the standard of design, the impact of the proposed development on the character of the area and neighbour amenity issues. In addition

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Members should have regard to the previous refused application for a replacement dwelling on the site and the current enforcement action in respect of the outbuilding and consider whether those concerns have been overcome by the present applications.

### **Replacement dwelling**

- 7.2 Policy GBC1 (e) of the Local Plan indicates that replacement dwellings in the Green Belt may be considered as appropriate development where they accord with the provisions of policy HSG8 of the Local Plan.
- 7.3 Policy HSG8 allows for replacement dwellings in the Green Belt where the original dwelling is of poor appearance or construction not contributing to the character or appearance of the surroundings. Officers do not consider however that the original property in this case was of poor appearance. In respect of its standard of construction, the applicant argues that the extensions permitted to the property in 2005 and 2007 would also have resulted in extensive demolition of some of the main walls of the original dwelling. They have also indicated that due to the age and standard of construction of the original house (i.e. minimum foundations) the replacement structure, built to current standards would represent an overall improvement in terms of sustainability.
- 7.4 Officers do accept that the approved scheme for extensions to the original house would have resulted in some demolition of the original. However, the extent of demolition that has occurred is in excess of that which would have resulted from the extension scheme. Nevertheless, we are now in a position where the property has, almost completely, been demolished and Members now have to consider the future use and development of the site. Clearly, the site has a lawful residential use and Officers consider that a replacement dwelling of a similar size and design to the original (with the previously approved extensions) would be the most appropriate development bearing in mind in this Green Belt location. This would result in a development of a similar size and scale to that which had been previously envisaged and would improve the appearance of the site which is currently poor.
- 7.5 The proposed replacement dwelling would be materially larger in volume than the original dwelling as it includes the two storey side extensions already approved as additions to the original dwelling in 2007 under reference 3/07/2438/FP. As such, it is not strictly in accordance with policy HSG8 or, therefore, policy GBC1 and therefore must be considered as inappropriate in the Green Belt. It is for this reason that the application is before Members.



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- 7.6 It is therefore necessary to consider whether there are any very special circumstances in this case that warrant a departure from Green Belt policy. Officers are of the opinion that there are such very special circumstances in this case and that these relate to the approved extensions granted by the Planning Inspector in 2005 and by the Council in 2007. Unlike the earlier application for a larger replacement dwelling, this current proposal seeks only to erect a replacement dwelling of the same size as the original house, together with the previously approved extensions. It would therefore, have an almost identical impact on the surrounding area as the previously approved extension scheme would have had, and which was considered to be acceptable by both the Planning Inspectorate and the Council.
- 7.7 Officers therefore consider that this proposal would not harm the character or appearance of the surrounding area or adversely impact on the openness of the Green Belt. The replacement dwelling would be no more visually intrusive than the original (with approved extensions) and would occupy roughly the same position within the plot. As such, it would continue the pattern of surrounding development.
- 7.8 In terms of design, layout and height, the proposal follows the form of the both the original dwelling and the design and layout of the 3/07/2438/FP approval. It would compliment the character of the local built environment and has regard to local distinctiveness. The original house was of a distinct 1940's style with render walls, brick segmented arches above windows and doors, a notable full height bay window, distinct pattern of fenestration and hipped roof in clay plain tiles. The application recreates this design and style, taking note of the proportions and position of all the features of the original dwelling. The additional volume elements also reflect the form of the original dwelling, as did the extensions added under the 3/07/2438/FP approval.
- 7.9 The modest addition of an end chimney, the reduction to a hip of the front gable, and the inclusion of hips on the front dormers, create minor elements that compliment and enhance the dwelling, do not add significantly to the volume or detract from the character and appearance of the dwelling or the surrounding rural locality.
- 7.10 Officers consider the changes made to the proposed development make a significant improvement to the appearance of the proposed dwelling retaining the form, design, scale and size of the previous approval.

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- 7.11 There are, in Officers opinion, no neighbour amenity issues. There are substantial distances to the retained mature planted side boundaries of 22m to the west and 35m to the east. The rear garden boundary is some 60m to the rear of the dwelling through a predominantly level site, with views over rural countryside and woodland.
- 7.12 The Parish Council has referred to the existence of a partially constructed basement at the site. This application does not include a basement for the replacement dwelling and the applicant has been advised that the partially constructed basement will either have to be filled in, or planning permission sought for its retention. A directive further highlighting this is suggested. It may be the case that Members would consider a basement acceptable in this location (although technically it would add to the volume of the proposed dwelling). However, that consideration would be the subject of any future application.
- 7.13 In view of its location within the Green Belt; the size of the proposed dwelling (to include previously permitted extensions) and the fact that significant outbuildings have already been erected (or are recommended for approval) at the site, it is considered appropriate and necessary to impose conditions in this case restricting permitted development rights in respect of further extensions and curtilage buildings without express planning permission. Such conditions are therefore recommended at the head of this report.
- 7.14 With regard to the very special circumstances of the case, and subject to the conditions suggested, it is recommended that planning permission be granted.

**Leisure outbuilding**

- 7.15 The proposed leisure outbuilding, which would be some 6m shorter in length than the existing unauthorised outbuilding, now proposes a snooker room with seating, gym, sauna, showers, Jacuzzi and WC. These facilities are considered to form an incidental part of the residential use of the site as a whole and as such would be an appropriate use. A condition is suggested requiring that the building remains used solely for such ancillary purposes. Officers also consider that the proposed replacement building would be subservient and incidental in size and scale to the main dwelling proposed on the site.

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- 7.16 To improve the appearance and reduce the detrimental impact on the rural locality from the rather harsh exterior finish of the unauthorised outbuilding it is proposed that the exterior of the proposed replacement leisure building would be black painted weather boarding. The slate roof would be retained, a brick plinth at base level would be provided to match the proposed dwelling and the modern plastic fenestration would be replaced with limited oak windows and French doors. This would create a more rural designed outbuilding that is replicated along Bramfield Road and in the adjacent farm and livery buildings. The applicants also propose to similarly treat the exterior of the double garage.
- 7.17 The new outbuilding, if permitted, would replace the existing unauthorised building and the existence of the enforcement notice already served on the site will ensure that the unauthorised building is removed in any event (subject to the outcome of the current appeal if it is not withdrawn).

### **Access/parking**

- 7.18 The single existing access to the site would be retained for entry and egress in forward gear. As regards parking provision there is ample space within the entrance drive for additional parking in concert with the double garage. The Highway Authority has confirmed that there is no objection to the proposals from a highway safety viewpoint.

## **8.0 Conclusion**

- 8.1 The proposed replacement dwelling and outbuilding are both materially different from the applications which have previously been considered and found to be unacceptable. They would, in the opinion of Officers, address the previous areas of concern.
- 8.2 Officers consider that the proposed resultant dwelling with the adjacent outbuilding and garage would enhance the character and appearance of the locality rather than detract from it.
- 8.3 It is accepted than in terms of size, the proposed replacement dwelling does not comply with the provisions of policy HSG8 and is therefore inappropriate development within the Green Belt. However in this case, it is considered that the history of planning approvals for extensions to the property in the past and the fact that the resultant replacement dwelling would have much the same impact visually, constitutes very special circumstances to justify the approval of permission.

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- 8.4 In respect of the proposed outbuilding, Officers are satisfied that its reduced size would overcome previous concerns regarding the unauthorised outbuilding; its appropriateness as an ancillary building; and its visual impact on the surrounding area. It would replace the existing unauthorised building and avoid the need for further enforcement action in this respect. The existing valid enforcement notice would ensure that the Council retains control over the removal of the unauthorised outbuilding.
- 8.5 Having regard to the above considerations it is recommended that planning permission is granted for both the replacement dwelling and the outbuilding subject to the conditions at the head of this report.