



Appeal Decision

Site visit made on 22 May 2009

by **P B Jarvis** BSc (Hons) DipTP MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
23 June 2009

Appeal Ref: APP/J1915/A/08/2090293 28 Temple Fields, Hertford SG14 3LS.

- 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 Michael Guilbride against the decision of East Herts Council.
- The application (Ref 3/08/0632/FP), dated 27 February 2008, was refused by notice dated 13 May 2008.
- The development proposed is a rear conservatory extension.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues are the impact of the proposal on (a) the character and appearance of the host dwelling and (b) the living conditions of the occupiers of the adjoining property.

Reasons

Impact on the character and appearance of the host dwelling

3. The proposed conservatory would be added to an existing rear single storey addition, which extends across the entire width of the dwelling. However, unlike the rear flat-roofed addition, it would have a hipped roof, the height of which would extend above the flat roof. The total depth of both extensions from the original rear elevation of the dwelling would be about 5.7 metres.
4. I consider that the design of the conservatory, in particular its roof shape, would contrast sharply with that of the existing rear addition. The hipped roof of the conservatory would appear awkward when seen against the flat roof of the existing extension, resulting in a poor design and appearance. Furthermore, the resulting increased rearward projection would be out of keeping with the proportions of the existing modest house.
5. For these reasons, I consider that the proposal would be an unsympathetic addition to the rear of the existing extension and would fail to complement the appearance of the existing dwelling. It would thus conflict with Policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review (2007), (LP).

Impact on the living conditions of the occupiers of the neighbouring dwelling

6. The adjoining dwelling has not been extended to the rear. Thus the existing rear addition at the appeal property already extends beyond the ground floor rear elevation of that neighbour, which contains a glazed door and window.
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The proposal would add further to the depth of built development on the common boundary, and thus beyond the rear elevation of this adjoining property.

7. Notwithstanding that the proposed conservatory would have glazed elevations, the proposal would, in my opinion, result in an increased sense of enclosure to the adjoining dwelling. The effect on the garden area would be particularly pronounced given its relatively modest width and depth.
8. I note that the proposal would be sited to the south of the adjoining property. Again whilst the use of glazing to the walls and roof and its relatively low height would reduce its impact to some extent, given its position right on the boundary, I consider that it would nevertheless impact on the level of sunlight currently enjoyed by the adjoining property.
9. For the reasons given above, I find that the proposal would have a harmful impact on the living conditions of the occupiers of the adjoining property. I thus conclude that it would conflict with LP Policies ENV1 and ENV5. I do not find any conflict with LP Policy ENV6 in respect of this issue as this policy essentially relates to the design and appearance of extensions to dwellings rather than any impact on adjoining properties.

Other Matters

10. I note that the appellant and his wife have suffered ill health recently and consider that the proposed extension would provide useful additional space on the ground floor whilst at the same time reducing the maintenance requirements of the garden. However I do not find these reasons sufficient to outweigh the harm identified above.
11. The appellant has also emphasised the lack of objection received, particularly from the adjoining neighbour. However, I must determine the proposal in the context of relevant policy and all material considerations and I do not find such lack of objection to outweigh the harm identified above.

Conclusion

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

P. B. Jarvis
INSPECTOR



Appeal Decision

Site visit made on 22 May 2009

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The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
23 June 2009

Appeal Ref: APP/J1915/A/09/2094857

Moredown, Standon Road, Little Hadham, Herts SG11 2DD.

- 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 and Mrs P Young against the decision of East Herts Council.
- The application (Ref 3/08/1146/OP), dated 13 June 2008, was refused by notice dated 14 August 2008.
- The development proposed is a detached bungalow (10 metres by 12.5 metres).

Decision

1. I dismiss the appeal.

Procedural Matter

2. The application is in outline but with all matters except appearance to be determined at this stage.

Main issues

3. I consider that there are four main issues. They are (a) the impact on the character and appearance of the area, (b) the impact on the living conditions of the occupiers of neighbouring dwellings, (c) whether there is sufficient information to demonstrate that the proposal meets a local housing need and (d) whether there is sufficient information to assess the risk of flooding.

Reasons

Impact on character and appearance of the area

4. The appeal site is located to the rear of a row of dwellings which front a short service road which runs parallel to the main road. The main part of the site is adjoined by other private back garden areas. The area is characterised by established planting and mature trees. There is further residential development to the south of the appeal site; this comprises frontage development to Lloyd Taylor Close.
5. The proposed dwelling would introduce a form of development which would be at odds with the established pattern of development. In particular it would introduce a substantial building into the private rear garden area of the group of dwellings referred to above, where at present such buildings comprise only small garden sheds or similar. The proposal would be screened to some extent by trees and other established planting to be retained within the site. However, I consider that it would result in a form of development which would be incompatible with the structure and layout of the surrounding area and fail to

complement the existing building pattern. I therefore find that the proposal would conflict with Policies ENV1, HSG7 and OSV2 of the East Herts Local Plan Second Review (2007) (LP).

Impact on living conditions

6. As indicated above, the site is located within an area which comprises the private back garden areas of the surrounding properties. There is a driveway to the side of the existing property, Moredown, which extends into the rear part of the site. On my site visit I saw that whilst vehicles are parked to the front of the property along this drive, there were also vehicles parked in part of the existing rear garden area within the area proposed for development.
7. However, the proposal would be likely to result in an increased level of vehicular activity along this driveway compared to this current use. There is a boundary fence and established planting along the boundary with the adjoining property, Upalong, which would adjoin the proposed vehicular access. However, I consider that the proposal would result in a material increase in the noise and disturbance associated with vehicle movements along this driveway. In my view, this would result in a harmful impact on the living conditions of the occupiers of the neighbouring property, whose relatively peaceful surroundings would be adversely affected.
8. I therefore conclude that the proposal would conflict with LP Policy ENV1(d).

Whether the proposal meets a local housing need

9. LP policy OSV2 identifies Little Hadham as a category 2 village where within the built-up area, infill housing development may be permitted provided that, amongst other things, it meets a local need which has been identified either through the latest District Housing Needs Survey or subsequent Parish Survey.
10. The appellant has provided information on the 2004 Housing Needs Survey, updated in 2005, which identifies a need for two, three and four bedroom houses. These figures appear to have been updated by a Parish Council survey of 2007, also referred to by the appellant, where a need for three and four bed houses was identified. The Council note that the most recent survey of housing need identifies a modest requirement for three bed dwellings, but no requirement for two bed dwellings. On the basis of the above, whilst there does appear to be agreement on a local need for three bed dwellings, this would not appear to be the case for two bed dwellings.
11. The information before me does not include floor plans for the proposed dwelling but I note that the forms indicate that the proposal would provide two bedrooms. On this basis, I conclude that the proposal would not meet an identified local need and would thus conflict with LP Policy OSV2 (b).

Whether there is sufficient information to assess the risk of flooding

12. Whilst the appeal site does not appear to be within the flood plain or washlands, the Council have expressed concern regarding the potential of the ditch which crosses the site to flood. These concerns are echoed by neighbours who have referred to a number of occasions in the recent past when flooding has occurred. However, the Environment Agency has identified no issues and

confirmed that no Flood Risk Assessment is necessary provided that conditions relating to the siting of the building relative to the top of the river bank and finished floor levels are imposed. The appellant has confirmed that these requirements would be met and the Council do not appear to dispute this.

13. I consider that there is sufficient information to assess the risk of flooding. I find no conflict with LP Policy ENV19, which specifically relates to development in the flood plains or washlands. In addition, I consider that the proposal would comply with the advice in PPS25 which indicates that a flood risk assessment would only be required for development sites of over one hectare in flood zone 1 areas, within which the site appears to be located. On the basis of the above, I consider that appropriate conditions could be imposed to ensure that there would be no flood risk associated with the proposal.

Conclusion

14. For the reasons given above, whilst I find no harm in relation to the fourth issue, this does not outweigh the significant level of harm identified in respect of the first three issues.

15. I therefore conclude that the appeal should be dismissed.

P. B. Jarvis
INSPECTOR



Appeal Decision

Site visit made on 22 June 2009

by **Chris Watts BA Hons MRTPI DMS**

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
8 July 2009

Appeal Ref: APP/J1915/A/09/2101424

16 Maple Avenue, Bishop's Stortford, Hertfordshire, CM23 2RR

- 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 Grayson Building Ltd against the decision of East Herts Council.
 - The application Ref 3/08/1163/FP, dated 20 June 2008, was refused by notice dated 6 October 2008.
 - The development proposed is the demolition of the existing dwelling and erection of 6 new dwellings in a terrace.
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Decision

1. I dismiss the appeal.

Main issues

2. I consider that there are two main issues in this appeal. Firstly, the effect of the development on the character and appearance of the area; and secondly the effect of the development on the living conditions of the occupiers of adjacent properties, in relation in particular to their outlook, and potential overlooking of their properties.

Reasons

(i) Character and Appearance

3. This area is made up of large properties set in substantial grounds, with a significant amount of mature landscaping present. The majority of the buildings are individual houses many of which are 2.5 storeys in height. I have noted that some flatted developments have recently been built in this road, to a similar form and scale, albeit using more modern materials and designs.
 4. The plots are generally spacious and large, and the original early 20th century houses here contrast with the much more recent, line of suburban semi detached and detached two storey properties to the rear in Dane Park.
 5. The appeal site rises up steeply from Maple Avenue to the rear boundary with the nearest properties in Dane Park, and contains a substantial amount of mature landscaping at the front; along one side boundary adjacent to no 18, and adjacent to part of the rear boundary. The spaciousness and vegetation make an important contribution to the character and appearance of this area.
 6. The proposed development is set in the centre of the appeal site, in a staggered form, with 6 no three storey townhouses. I have noted that the
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design of dwellings in this area is varied, and that there have been recent flatted developments, so in principle, townhouse type dwellings might be acceptable. However it is the form that these take in this proposal which is important and I consider this below.

7. In this respect I have noted that those recent flatted schemes have been developed in a built form and scale which is compatible with that of the surrounding development, leaving a good space around the new buildings and retaining the mature landscaping along side boundaries, so that the openness and mature landscaping which is characteristic of this area, have been maintained.
8. In the case of the appeal proposals, although the proposed townhouses are shown in the centre of the site, set well back from Maple Avenue and would not be particularly prominent when viewed from the road because the mature frontage landscaping would be retained, the visual impact of the development would change once one entered the site.
9. The development, by virtue of the height, spread, depth and massing of the buildings and their close proximity to the side boundaries, would appear very dominant, and cramped. The buildings would appear as a substantial and monolithic line of three storey townhouses with no relief or space between them. In addition, very little space in reality would be left on each side of this terrace of townhouses to be able to maintain the existing trees, or for replacement landscaping to be undertaken along the side boundaries of the site.
10. The development would result in the loss of a substantial amount the existing mature landscaping, particularly on the side adjacent to no 18, and also at the rear in order to allow the rear gardens for the townhouses on that part of the appeal site to be created.
11. In this context I have concluded that the appeal proposals would harm the character and appearance of the area by virtue of its massing, spread, depth and height, and that this would be in conflict with Policies ENV1; ENV2 and HSG7 of the East Herts Local Plan Second Review April 2007.

(ii) Living Conditions

12. The proposed development would be sited some way back from the position of the existing dwelling on the appeal site. In addition, the townhouses are proposed to be set down into the ground, taking advantage of the sloping ground levels, and have a roof profile which is intended to try to reduce the visual impact of the development, when viewed from the surrounding properties, within the limitations of a three storey built form.
13. Whilst this siting reduces the visual impact of the development when viewed from Maple Avenue, I consider that a terraced development of the width, scale, massing and height proposed, would nevertheless, still have a significant impact on the outlook and aspect from a number of the properties at the rear in Dane Park, and on each side of the appeal site in Maple Avenue, when viewed from nos 18 and 20.

14. The visual impact and overbearing nature of the development would completely transform the view from properties in Dane Park in particular, to the detriment of their outlook and aspect, and contrary to Policies ENV1 and HSG7 of the Local Plan.
15. In relation to overlooking and potential loss of privacy caused by the development, whilst the development would be three storeys high with high level windows, because of the slope of the ground the second storey windows would be at about the equivalent first storey level of the houses fronting Dane Park.
16. These windows would not allow in practice, any greater degree of overlooking than first floor windows would. Given the substantial separation distance to the rear boundary and to the rear elevations of properties beyond in Dane Park I do not consider there would be an unacceptable level of overlooking or a loss of privacy for the adjoining occupiers of those properties in their houses or gardens.
17. I conclude that the appeal proposals would therefore also detract from the living conditions of the occupiers of adjacent properties by way of substantial harm to their outlook and aspect by virtue of the spread, scale, overbearing and monolithic nature of the development contrary to Policies ENV1; and HSG7 of the East Herts Local Plan Second Review April 2007.

Other Matters

18. I have also taken into account a number of other issues that third parties have brought to my attention. These concerns include that a precedent would be created here if the appeal is allowed, and that the boundary, and survey information provided by the appellant are inaccurate. However, none of these concerns add any particular weight to my decision.

Conclusions

19. I conclude that the appeal proposals would harm both the character and appearance of the area, and the living conditions of the occupiers of properties adjacent to the appeal site, contrary to Policies ENV1; ENV2 and HSG7 of the East Herts Local Plan Second Review April 2007, and that the appeal should be dismissed for these reasons.

Chris Watts

INSPECTOR



The Planning Inspectorate

Room: 3/19 Eagle
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line: 0117-372-8715
Switchboard: 0117-372-8000
Fax No: 0117-372-8181
GTN: 1371-8715
teamp3@pins.osi.gov.uk
<http://www.planning-inspectorate.gov.uk>

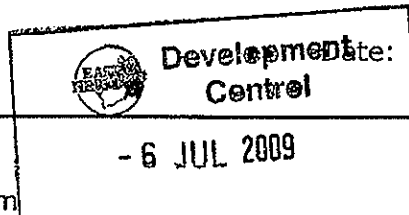
Development Control
East Hertfordshire District Council
Development Control
Wallfields
Pegs Lane
Hertford
SG13 8EQ

Your Ref:

3/08/1177/FP
3/08/1180/LB

Our Ref:

APP/J1915/E/09/2100731/NWF
Further appeal references at foot of letter
3 July 2009



Dear Sir/Madam

Planning (Listed Buildings and Conservation Areas) Act 1990 and Town and Country Planning Act 1990
Appeals by City & Country Residential
Site at Balls Park, Mangrove Road, Hertford, SG13 8AJ

I am writing to tell you that the appeals APP/J1915/E/09/2100731/NWF and APP/J1915/A/09/2100729/NWF have been withdrawn by the appellants.

The inquiry arranged for Tuesday, 4 August 2009 has been cancelled.

Please tell anyone you informed of the arrangements about the cancellation. I suggest that details of the cancellation are displayed at the venue.

Yours sincerely

pp Susan Dibble

313(BPR)

Further appeal references:- APP/J1915/A/09/2100729

*You can now use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is - <http://www.pcs.planningportal.gov.uk/pcspportal/casesearch.asp>
You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button*





Appeal Decision

Site visit made on 22 May 2009

by **P B Jarvis** BSc (Hons) DipTP MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
23 June 2009

Appeal Ref: APP/J1915/A/09/2097203

Rushwood, Ware Park, Ware, Hertfordshire SG12 0DU.

- 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 and Mrs Craig Faulkner against the decision of East Herts Council.
- The application (Ref 3/08/1217/FP), dated 1 July 2008, was refused by notice dated 28 August 2008.
- The development proposed is the provision of a pitched roof extension and conversion of garage to granny annex.

Decision

1. I dismiss the appeal.

Main issues

2. The main issues are:
 - whether the proposal amounts to inappropriate development in the Green Belt for the purposes of Planning Policy Guidance Note 2 (PPG2) and development plan policy;
 - the effect of the proposed development on the openness and visual amenities of the Green Belt, with particular reference to the character and appearance of the existing building and its surroundings;
 - whether any 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

Whether the proposal amounts to inappropriate development

3. Paragraph 3.6 of PPG2 indicates that provided it does not result in disproportionate additions over and above size of the original building, the extension or alteration of dwellings is not inappropriate in Green Belts. Policy GBC1 of the East Herts Local Plan Second Review, (2007), (LP), sets out that the construction of new buildings within the Green Belt will be inappropriate unless for the purpose of, amongst other things, limited extensions or alterations to existing dwellings in accordance with LP Policy ENV5.
 4. The property has been previously extended but the parties do not agree on the amount of the additional floorspace added, although details of the approved plans were provided. The parties also appear to disagree in respect of the
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proposed floorspace figure. However, even on the basis of the figures put forward by the appellant, which indicate a smaller cumulative increase than the Council's, the proposal would result in an almost doubling of the original floorspace.

5. Having regard to the above, I consider that the proposed extensions would amount to disproportionate additions to the original dwelling. Furthermore they would not amount to limited extensions in accordance with LP Policy ENV5. I therefore conclude that the proposal amounts to inappropriate development in the Green Belt.

Effect on openness and visual amenity of the Green Belt and character and appearance of the building and its surroundings

6. The proposal, which consists of a large, pitched roof addition, would, in my view, add considerable bulk to the dwelling particularly when viewed from the road to the front of the dwelling. Although the additions would be set back from the main front elevation of the original dwelling and would be screened to some extent by the existing trees around the boundaries of the site, the extensions would nevertheless be visible from the road to the front of the property and in my view would add significantly to the built development on the site. The proposed roof extension would not in my view be complementary to the existing dwelling and would result in disproportionate additions.
7. Furthermore, given the size and prominence of the proposed extensions, I find that they would detract from the wider openness and visual amenity of the Green Belt.
8. The proposal would thus conflict with guidance in PPG2 and fail to comply with LP Policy ENV5. This would amount to a significant level of harm.

Whether any 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

9. PPG2 at paragraph 3.2 sets out that inappropriate development is by definition harmful and substantial weight is to be attached to such harm. In addition, I find that there is further significant harm arising from the impact on the openness and visual amenity of the Green Belt and the character and appearance of the existing buildings and its surroundings, as set out above.
10. The existing extensions comprise flat-roofed single-storey side and rear additions, to which the proposed pitched roof would be added. It is suggested by the appellants that the existing flat-roofed extensions were constructed pursuant to the grant of permission in 1983. However the 1983 permission was for a hipped roof extension with accommodation in the roofspace. Thus although the footprint of the single-storey extensions appears to be as indicated on the approved plans, the extensions were never fully completed.
11. The Council argue that what has been built on site does not amount to the implementation of the 1983 permission as a materially different development has taken place. Given the clear differences in the appearance and design of the existing extensions compared to that of the approved scheme, I agree with

this interpretation. Therefore the argument advanced by the appellants that the permission is still extant is not, in my view, correct. I consider that the roof, incorporating the upper floor of the 1983 permission, could not now be added as lawful development. Therefore I do not consider that this permission can be relied on as providing any 'fall-back' position. In addition, given the time that has elapsed since it was granted, it has little relevance to the consideration of the scheme now before me, particularly as the circumstances under which it was granted may have changed.

12. The appellants suggest that the existing flat-roofed extensions by virtue of their design and appearance, detract from the character and appearance of the dwelling and the proposed additions would result in a visual improvement. Whilst I agree that the existing extensions are not particularly attractive, neither are they especially prominent. In contrast to the proposed roof additions, which in my view would add significantly to the bulk of the existing dwelling, they appear subservient to the scale and proportions of the original dwelling and do not impact significantly on the rural character of the area. Thus I attach little weight to this consideration.

13. The appellants also argue that the proposal would significantly improve the amenities of the existing dwelling by providing first floor accommodation, enabling a re-arrangement of the ground floor accommodation and the provision of an annex for a relative. However, such enhancements could be achieved in other ways and thus I attach little weight to such a consideration.

14. Overall, I do not find any of the above considerations, either individually or when considered cumulatively, to be such as to clearly outweigh the substantial harm to the Green Belt identified above.

15. I thus conclude that the proposal would amount to inappropriate development in the Green Belt in respect of which no very special circumstances exist.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

P. B. Jarvis
INSPECTOR



Appeal Decision

Site visit made on 22 May 2009

by **P B Jarvis** BSc (Hons) DipTP MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
23 June 2009

Appeal Ref: APP/J1915/A/09/2098633

The Firs, Levens Green, Old Hall Green, Ware SG11 1HD.

- 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 Malcolm Dorling against the decision of East Herts Council.
- The application (Ref 3/08/1614/FP), dated 11 September 2008, was refused by notice dated 31 October 2008.
- The development proposed is a single and two storey rear extension, dormer windows to front elevation and internal alterations.

Decision

1. I dismiss the appeal.

Main issue

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

Reasons

3. The property has been previously extended a number of times and there is a dormer window to the front of the property over the garage. However, this does not appear prominently in the streetscene view of the property, particularly when viewed from the main road on the other side of the green which the dwelling fronts. More extensive dormer additions have been carried out to the rear, but the original bungalow form is still evident.
 4. The proposals would involve substantial additions to the property comprising the raising of the roof height to accommodate additional dormer windows to the front elevation and a new pitched roof over the existing flat-roofed dormers to the rear.
 5. Whilst the extensions and alterations would maintain the appearance of the dwelling as a chalet bungalow when viewed from the street, the overall result would be to significantly increase the bulk of the property due to the increased roof height and addition of front dormers. Whilst the proposed additions would improve the appearance of the rather unattractive flat-roofed dormers at the rear, the increased height and extent of pitched roof, together with the proposed substantial two-storey rear extension, would result in a considerable increase in the size and bulk of the dwelling.
 6. I note that the appellant considers the existing property to have an unsatisfactory appearance and layout due to the various extensions that have taken place over time. It is argued that the proposed extensions would
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enhance the external appearance of the dwelling and improve the internal layout to provide a unified first floor, which at present is divided into two areas accessed by separate staircases. However, whilst I agree that the rear flat-roofed dormers are not particularly attractive, for the reasons set out above, I do not consider that the proposed extensions would be in keeping with the scale and proportions of the existing property nor would they enhance its appearance in streetscene views. Improvements to the internal layout may be achieved in a number of ways and thus, overall, I do not consider that these matters outweigh the harm identified.

7. Therefore, for the above reasons set out above, I conclude that the proposed extensions would result in bulky additions which would fail to complement the existing building and its setting. The proposal would thus harm the rural character and appearance of the area and fails to comply with Policies GBC3, ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review, (2007). I have noted the Council's Guidance Note *House Extensions*; however, it does not appear to have the status of formal Supplementary Planning Guidance and thus I attach little weight to it.

Conclusion

8. For the reasons given above I conclude that the appeal should be dismissed.

P. B. Jarvis
INSPECTOR



Appeal Decision

Site visit made on 1 June 2009

by Mrs H M Higenbottam

BA (Hons) MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@plns.gsi.gov.uk

Decision date:
25 June 2009

Appeal Ref: APP/J1915/A/09/2099156

1-3 Mill Lane, Watton-at-Stone, Hertfordshire SG14 3TB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Micagold against the decision of East Hertfordshire District Council.
- The application Ref 3/08/2111/FO, dated 17 December 2008, was refused by notice dated 5 February 2009.
- The application sought planning permission for the extension to roof and refurbishment of existing building to provide 3 No self contained commercial units with associated car parking and landscaping without complying with a condition attached to planning permission Ref 3/08/0679/FP, dated 2 July 2008.
- The condition in dispute is No 11 which states that: *The use of the premises shall be restricted to the hours of 07.00 to 20.00 Monday to Saturday and at no times on Sundays or Bank Holidays.*
- The reason given for the condition is: *In the interests of the amenities of the occupants of nearby properties.*

Decision

1. I allow this appeal and grant planning permission for the extension to roof and refurbishment of existing building to provide 3 No self contained commercial units with associated car parking and landscaping at 1-3 Mill Lane, Watton-at-Stone, Hertfordshire SG14 3TB in accordance with application Ref 3/08/2111/FO, dated 17 December 2008 without compliance with condition number 11 previously imposed on planning permission 3/08/0679/FP, dated 2 July 2008 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Background and Main issues

2. The original two storey building was previously used for purposes within Class B1 of the Town and Country Planning (Use Classes) Order 1987 (the Order) and the hours of operation were unrestricted by condition. Planning permission has been granted for the extension and sub-division of the original building to create 3 B1 commercial units. The extension provided for the creation of an additional floor. The Council imposed a condition restricting the use of the resultant building between the hours of 0700 and 2000 Monday to Saturday and at no times on Sundays or Bank Holidays, in the interests of the living conditions of nearby residential occupiers.
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3. I therefore consider that the main issue in this case is the effect of the extension and the use of the resultant building for B1 purposes on the living conditions of nearby residents.

Reasons

4. The appellant states that the additional floor granted consent under Ref 3/08/0679/FP related to approximately 150 sq m of floorspace provided as a mezzanine level with the roof space. A total of 10 parking spaces would serve the resultant building. Condition 10 of this planning permission restricts the use of the resultant building to B1. The reason for this condition is *to ensure that no alternative use is made of the premises which would be likely to be a nuisance or annoyance to the occupants of adjoining premises and result in adverse impact on the highway network.*
5. The Order defines Class B1 *Business* as:
Use for all or any of the following purposes –
- (a) as an office other than a use within A2 (financial and professional services),*
 - (b) for research and development of products or processes, or*
 - (c) for any industrial process,*
- being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.*
6. A B1 use must therefore, by definition, be capable of being carried out in a residential area without detriment to the amenity of that area. In my view, a use which resulted in material harm to the amenity of a residential area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit would not fall within Class B1.
7. The Council have sought to rely on Policy ENV24 of the East Herts Local Plan which relates to Noise Generating Development. There is no evidence that the proposed B1 use would generate any particular noise and I therefore find no conflict with this policy.
8. In addition, there is neither a restriction on the hours of operation of the original B1 use nor any evidence that this use resulted in any harmful effect on the living conditions of nearby residential occupiers. Furthermore, the limited increase in floor area would not, to my mind, result in a significant intensification of the use of the appeal site. The Council have provided no evidence to demonstrate why the additional B1 floorspace would materially change the effect of the B1 use on the living conditions of the nearby residential occupiers.
9. In the light of the lack of evidence to demonstrate that unrestricted operating hours of the appeal site for B1 use would harm the living conditions of nearby residents and taking into account the definition of a B1 use, I consider that the hours of operation condition is neither necessary nor justified.
10. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but subject to the other conditions originally imposed that are still subsisting and capable of taking effect.

Hilda Higenbottam

Inspector



Appeal Decision

Site visit made on 23 June 2009

by **Phillip J G Ware** BSc DipTP MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
2 July 2009

Appeal Ref: APP/J1915/A/09/2102971

Ashdene, The Ford, Little Hadham, Herts SG11 2AY

- 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 C Sutton against the decision of East Hertfordshire District Council.
- The application Ref 3/09/0083/FP, dated 16 January 2009, was refused by notice dated 18 March 2009.
- The development proposed is a garden wall.

Procedural matter

1. The proposal includes a front garden wall and a sliding gate. The application was amended whilst under consideration by the Council, to incorporate a reduction in the height of the wall and an increase in the width of the gate. I have dealt with the amended scheme as decided by the Council.

Decision

2. I dismiss the appeal.

Main issue

3. The main issue in this case is whether the proposal would preserve or enhance the character or appearance of the Hadham Ford Conservation Area.

Reasons

4. The appeal premises are a substantial detached dwelling with a double garage in the front area, located towards the edge of the village. Access to the property is by way of a track leading from the main road. The village as a whole, especially around the centre, is characterised by red brick dwellings of considerable charm, fronted by gardens enclosed mainly by low brick and flint walls.
 5. It appears that the front of the appeal premises were formerly partly enclosed by a hedge, and part of the Council's objection was to the loss of that hedge. However the appellant has stated that the hedge was not protected, and I it had been removed by the time of my visit. The scheme includes a new hedge behind the proposed wall. Given the removal of the previous hedge and the intention to plant a new one, I consider the proposal to be acceptable in this respect and find that it does not conflict with policy ENV 2 of the East Herts Local Plan Second Review (LP) 2007 (dealing with landscaping).
-

6. The Council did not object to the design of the proposed wall, which would be around 1.5 metres in height and constructed in red stock brickwork with flint infill panels. I noted a number of similar garden walls of around the same height in the village, and I consider the wall would preserve the character and appearance of the Conservation Area.
7. The remaining element of the proposal is a vertical timber boarded sliding gate, shown at around 1.7 metres in height and around 5.5 metres in width¹. The width of the proposed gate was increased when the scheme was amended.
8. During my visit to the site and the area I did not see any examples of this design of gate, or of entrances of similar dimensions – nor did either party invite me to inspect any similar gates. From my inspection of the area I consider the design and width of the gate to be out of keeping with the more restrained design of features in the area and that it would visually dominate this part of the track. It would represent an urbanising feature in this semi-rural location.
9. The appellant considers that the gate would have a neutral effect on this part of the Conservation Area. For the reasons given above, I disagree with that assessment, and consider that it would fail to preserve or enhance the character or appearance of the Hadham Ford Conservation Area. It would conflict with policies ENV 1 and BH 6 of the LP which seek a high standard of design which should reinforce local distinctiveness, and which is sympathetic to the character of the conservation area.
10. The appellant has stated that, based on the assumption that the track is a public highway, a gate (and wall) of up to 1 metre in height could be erected under permitted development rights. The Council has not commented on this matter, and I therefore do not know if this is accepted. In any event, even assuming this assertion to be correct, such a means of enclosure would have less impact on the area than the appeal scheme due to its more limited height. I therefore do not find this a persuasive reason for allowing this appeal.
11. The appellant has stated that a revised application has been submitted to the Council. However I do not know the outcome of this application, and it does not assist me in dealing with this appeal.
12. For the reasons given above I conclude that the appeal should be dismissed.

P. J. G. Ware

Inspector

¹ According to the elevation drawing – the site plan may be incorrectly scaled