



# 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

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Decision date:  
21 July 2009

**Appeal Ref: APP/J1915/A/09/2098865**

**Land fronting Ginns Road, Stocking Pelham, Herts, SG9 0JD**

- 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 James Roberts against the decision of East Herts Council.
- The application Ref 3/08/0918/FP, dated 19 May 2008, was refused by notice dated 27 August 2008.
- The development proposed is the construction of a single dwelling house to zero carbon standards and the planting of an arboretum featuring native broadleaf trees.

## Decision

1. I dismiss the appeal.

## Main issue

2. I consider the main issue in this appeal is the effect of the development on the character and appearance of the area.

## Reasons

3. The appeal site is located in open countryside and rolling hills, although there are a number of individual, scattered houses in the vicinity of the site, which make up part of the village of Stocking Pelham. A major electricity supply transmission centre and a row of large pylons dominates the landscape to the east. The surrounding landscape is generally one of a mix of agricultural fields, and woodland, and the appeal site itself is a narrow strip of woodland, made up of mainly broadleaved species. The site is an important wooded feature in the landscape on the horizon, when viewed from the south. There is no vehicular access onto the site, however there is a well worn footpath running through the spine of the site which is accessed via the adjacent land at Applecot.
4. The Council applies strict policies of restraint on proposed development in this area of countryside, through the application of Policies GBC2 and GBC3. In addition Policies ENV1 and ENV2 seek to retain and enhance existing landscape features. The appeal site sits within a part of the District which is defined as a Rural Area Beyond The Green Belt in the Local Plan.
5. The appeal scheme is intended to be a radical solution to the challenges of climate change. The new dwelling is designed to be zero carbon rated, and would be almost entirely sited below the ground level. The property would be served by a ground source heat pump, and recycled materials would be used in its external construction and finishes. The appellant also argues that the scheme is as much a landscape design as it is an architectural solution since it

is proposed that in conjunction with the new house, parts of the site would be re-planted with a major broadleaved arboretum, which in time would become a major feature in the landscape.

6. I consider that although this is an unusual approach to designing a carbon zero dwelling, the completely wooded nature, and narrowness of the site itself are significant constraints on any proposed residential development. In order to construct, and then use the new house in its proposed form and layout, as a residential property with a reasonable amount of car parking and amenity space provided, a significant amount of the existing woodland cover would probably have to be removed. In addition the subterranean form of the proposed dwelling and new access arrangements will require substantial excavations. I do not see how it would be possible either to retain much of the existing woodland on the site, at the same time as constructing the proposed appeal complex, access and car parking.
7. I would also be concerned that even though the building would be partially below ground with tree screening limiting its effect on the appearance of the countryside, changing the use of this land from a woodland area to a residential complex would result in a substantial and unacceptable change in the character of this area. My view on this issue is reinforced because a dwelling in the position, form and design proposed would not sit comfortably in such close proximity to the adjacent house and garden at Applecot.
8. I have had regard to the fact that the introduction of the Code for Sustainable Homes in 2006 has made it mandatory for all new homes to incorporate energy efficiency and other sustainable design measures up to Level 3 of that Code, but consider that the carbon neutral credentials of a new dwelling should not automatically override the very clear planning policies of restraint in the countryside as applied by the Council, unless the proposal is an example of truly outstanding contemporary and ground breaking design, as required in Planning Policy Statement 7 (PPS7).
9. While there are many benefits associated with building energy efficient dwellings, even if the appellant was to achieve the stated aim with the proposed design and new landscaping, these factors would not be sufficient to overcome the harm the proposed dwelling would have on the character and appearance of the countryside in this location, particularly as a significant number of the existing trees would have to be removed to allow the development to be built. I do not therefore consider that the design proposed justifies overriding the countryside protection policies referred to above.
10. I conclude therefore that the appeal proposals would harm the character and appearance of the area, contrary to the planning policies in the East Herts Local Plan Second Review 2007, referred to above.

#### **Other Matters**

11. I have also taken into account other matters raised by third parties such as the potential precedent that allowing the appeal proposal would set, and the impact on wildlife, but they do not add any particular weight to my decision.

**Conclusions**

12. I conclude that the appeal proposals would harm the character and appearance of the area, contrary to Policies GBC2, GBC3, ENV1, and ENV2 of the East Herts Local Plan Second Review 2007, and that this appeal should be dismissed.

*Chris Watts*

INSPECTOR



# Appeal Decision

Hearing held on 28 April 2009  
Site visit made on 28 April 2009

by **Ian Radcliffe** BSC (Hons) MCIEH DMS

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for Communities and Local Government

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Decision date:  
29 July 2009

**Appeal Ref: APP/J1915/A/09/2093330**  
**The Depot and Coachworks, Leaside Depot, Widbury Hill, Ware,**  
**Hertfordshire SG12 7QE.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Goring LLP and Lee Valley Estates against the decision of East Hertfordshire District Council.
- The application Ref 3/08/1399/OP, dated 31 July 2008, was refused by notice dated 19 November 2008.
- The development proposed is a mixed use development incorporating 1880 sq.m of commercial space, 0.45 ha of open space, 76 residential units and access onto Widbury Hill.

## Procedural matters

1. The application was submitted in outline, with access and layout to be determined at this stage, and all remaining matters reserved for subsequent approval. I have dealt with the appeal on that basis and I have taken the illustrative plans that have been submitted into account insofar as they are relevant to my consideration of the principle of the development on the appeal site.
2. The parties agreed at the hearing that the appeal concerned the following drawings; PA.183/1000/301, PA.183/500/303A, PA.183/500/304A, PA.183/500/305A, PA.183/500/306A, PA.183/500/307A, PA.183/500/308, PA.183/100/309, PA.183/100/310, PA.183/111/311, PA.183/111/312, PA.183/100/313, PA.183/500/314.
3. Revised plan, ref PA.183/500/302B was submitted by the appellant with the appeal statement. The highways authority and the Council have had the opportunity to consider this plan and have no objection to its inclusion. The plan shows the site layout and the two accesses to the site. The revision has amended the junction of a track with the access that would serve the residential element of the proposal. This does not amount to a material change in the type of development, and the nature of concerns of those who would normally have been consulted are clear from consultation on the original set of plans. As a consequence, I do not consider that their interests would be prejudiced if I was to take these amendments into account. I have therefore done so and my determination of this appeal is based on this plan and those listed in paragraph 2. A planning obligation was also submitted at the hearing.

## Decision

4. I allow the appeal, and grant planning permission for a mixed use development incorporating 1880 sq.m of commercial space, 0.45 ha of open space, 76 residential units and access onto Widbury Hill at The Depot and Coachworks, Leaside Depot, Widbury Hill, Ware, Hertfordshire SG12 7QE in accordance with the terms of the application, Ref 3/08/1399/OP, dated 31 July 2008 and the plans listed above, subject to the conditions in the schedule at the end of this decision.

## Main issue

5. The effect of the proposal on the supply of employment land in the area.

## Reasons

6. In order to maintain a supply of employment land in Ware policies EDE1 and WA8 of the East Herts Local Plan Review, adopted in 2007, have identified the appeal site as one of several employment areas for the town. The Employment Land Study conducted in 2004 categorised the site as being suitable for small to medium sized enterprises within use classes B1 and B2. In terms of the supply of employment land the Employment Land Study (ELS) conducted in 2008 identifies that a two year supply normally represents a balanced market. Its review identified that there was approximate supply of 4 years of office space and over 8 years supply of industrial space within the District. The current market therefore has an oversupply of employment land.
7. Ware has approximately 26 hectares of employment land of which the appeal site contributes 1.8 hectares. The proposal would retain 'The Coachworks' and construct an office building on that part of the site. 'The Depot' occupies the larger portion of the site and would be replaced by housing with the provision of public open space. This would reduce the amount of employment land on the site to 0.2 of a hectare. This would equate to a loss of approximately 6% of the employment land in Ware.
8. The appellant purchased the site with vacant possession in early 2007. 'The Coachworks' was refurbished, subdivided into 9 units and marketed from April of that year. Given the dominance of small businesses in the area the ongoing marketing has been predominantly local. Notwithstanding these efforts 4 of the 9 units remain unoccupied. In comparison 'The Depot' which was designed for warehousing remains almost completely vacant. Owing to traffic levels and the layout of junctions it is clear that the access to the site through Ware town centre to the west is difficult for large vehicles. The only other approach is from the east and restrictions have been placed on vehicles turning out of the site in that direction. As a consequence, it is an unattractive location for a warehouse or other businesses involving the use of large vehicles. In addition, unlike 'The Coachworks', the construction of the building is unsuitable for subdivision into small units. Unless redevelopment of 'The Depot' occurs the building is likely to remain vacant.
9. By reason of its location and its limited accessibility for large commercial vehicles the appeal site is a secondary employment location. The ELS carried out a qualitative assessment of employment land in the District. The appeal site was the only site in Ware where it noted that vacant units were present

and its description indicates that it is in the least best employment location in the town. Its inclusion as an area of employment land appears to reflect its historical use rather than a through analysis of its location and viability for development. If the study had identified that the Depot is a warehouse and the difficulties with subdivision it may well have been more supportive of its redevelopment for other uses. Nevertheless, it graded the site as amber and recommended that the quality of the estate should be improved and if vacancies persist that it is considered for redevelopment. In more buoyant economic times 'The Coachworks' may well become fully occupied. However, I do not envisage that the 'The Depot' without redevelopment would return to use.

10. Planning Policy Statement 4: 'Planning for Sustainable Development' is a consultation document. It promotes mixed use development and suggests that site allocations for economic development should not be simply carried forward but instead wider or alternative uses such as housing should be actively considered. Whilst it has not been adopted as government policy, and so I can attach only limited weight to it, it demonstrates the direction of government thinking in relation to sites such as 'The Depot and Coachworks'.
11. The Council accept that some residential development may be appropriate in order to help fund the commercial redevelopment of the site but not as much as is proposed by the appellant. Viability assessments for 3 scenarios have been submitted by the appellant based on current market conditions. The first is the appeal proposal, with 76 dwellings, 1880 sq.m (approximately 20000 sq.ft) of office / light industrial space and open space provision. The second involves fewer dwellings (46), more commercial space 5574 sq.m (60000 sq.ft) and open space provision. The third considers the existing situation of 5760 sq.m (62000 sq.ft) of commercial space. The assessment demonstrates that at present the only economically viable proposal for the site is the appeal proposal.
12. The reasoned justification for policy EDE1 of the LP recognises that some areas of employment land are currently underutilised and that there is sufficient land available through reuse or redevelopment to meet current employment requirements. In this regard using either the appellants or the ELS figures the proposed loss of 'The Depot' to housing and the construction of the office building on the coachworks site would result in between 60 and 90 jobs, significantly higher than the estimated 46 jobs provided across the site by its previous occupiers. This is a finding of weight in support of the appeal.
13. The ELS 2008 concluded that in order to meet the growth targets for the District contained within the Regional Spatial Strategy (RSS) for the period 2008 - 2021, an increase in employment land of up to 5 hectares would be necessary. Even with the loss of the 1.2 hectares from the appeal site, and the loss of other employment sites which the ELS accepts should be considered for redevelopment, this is a relatively small amount over the 13 year period of the RSS. The location of new employment land in relation to Ware and the other towns in the District will be addressed by the employment land allocation within the Council's Local Development Framework which is currently in preparation. This process represents an opportunity to allocate new employment land in locations that have better access to the road network than the appeal site.

14. Taking all these matters into account, I conclude that the proposal, in reducing the amount of employment land within Ware, would harm the supply of such land contrary to policies EDE1 and WA8 of the Local Plan. However, its location and poor accessibility for larger commercial vehicles, and the oversupply of employment land, would mean that its loss would not equate to unacceptable harm.

### **Other matters**

#### *Mixed use development and housing*

15. Planning Policy Statement 1: 'Delivering Sustainable Development' advises that the efficient use of land should be actively sought through higher density mixed use development of suitably located previously developed land, particularly where it is vacant or undeveloped. Given the ease of access from the site to the town centre and its range of services, including the train station, on foot or by bicycle the appeal site is suitably located. The majority of the site is also vacant. The appeal site is therefore suitable for a mixed use development. This is a further finding of weight in support of the proposal.
16. Planning Policy Statement 3: 'Housing' advises that local planning authorities should consider whether land currently allocated for industrial or commercial use could be more appropriately reallocated for housing development. Given the difficulties associated with employment use of the site the proposed housing development accords with this guidance. The District can demonstrate a 5 year supply of housing land. However, this is a minimum level sought rather than a maximum and development of the site would make a contribution to meeting the targets for the District. Furthermore, the Council's 2005 Housing Needs Survey identifies that the demand for affordable housing is such that in order to meet demand virtually all new housing would need to be affordable. The proposal, in constructing 30 affordable dwellings, would make a contribution to addressing the shortage of affordable homes in Ware. This is a benefit that weighs in favour of the proposal.

#### *Environmental improvements*

17. The appeal site is situated on the banks of the River Lea. Historically this area with the River Lea navigation, railway and roads was the focus of industrial activity in the town. The degree of industrialisation is now far less. Sand and gravel extraction to the south of the site ceased some time ago and this restored area and its lakes now form part of the Lee Valley Regional Park. The Metropolitan Green Belt abuts the southern and eastern boundaries of the site. At present the Depot dominates the river frontage and its utilitarian design detracts from its setting. Subject to high quality design and landscaping the development, with its creation of public open space, would provide a far more attractive development that would enhance the river frontage and complement the Regional Park and the Green Belt. The proposed bridge across the river would open up this part of the Regional Park to local residents, workers and visitors. The redevelopment of the site would lead to the remediation of those areas of land that are contaminated. These are benefits that weigh in favour of the proposal.

*Layout*

18. The proposed layout is a matter before me for consideration and demonstrates that the site is sufficiently large to accommodate the Coachworks and the proposed new office building, dwellings and open space without appearing cramped. The arrangement of the buildings and their relationship with footways, parking and open space would improve the river frontage. The layout of the proposal is not objected to by the Council and I concur with that assessment. I therefore conclude that the layout of the proposal is acceptable.

*Highway safety*

19. The highway authority has no objection to the revised junction of the track with the residential site access which formed the Council's second reason for refusal. I have no reason to disagree with that conclusion. I conclude that the proposal therefore would not harm highway safety and would comply with policy TR2 of the Local Plan.

*Planning obligations*

20. Policy IMP1 of the Local Plan advises that where new housing creates a demand for facilities and services for the community, including transport related improvements, the Council will, where appropriate, seek to secure their provision or contributions towards their provision. Such facilities include the public library service which the Council has a statutory duty to provide. Two thirds of the 76 proposed dwellings would have 3 or 4 bedrooms and so would constitute family housing. This would clearly increase demand for community facilities and services. The County Council has specifically identified the need to fund the findings of a travel plan and construct a new bus stop for the development. It has also identified, amongst other matters, that the development would exacerbate the shortage of out of school care that exists at schools in the area and that greater pressure would be placed on the existing library. The sums sought would be spent on improving these local services. The affordable housing element of the scheme also needs to be secured. Without such provision the development would place excessive demands on local services and would not assist in meeting the demand for affordable housing.
21. Based upon the policies of the Local Plan and the guidance within the County Council's 'Planning obligations guidance - toolkit for Hertfordshire' on need within the District, and what and where the money sought would be spent, the contributions sought would make appropriate provision for the impact of the development and would meet the tests set by Circular 05/2005: *Planning Obligations*. The contributions are therefore justified and the obligation is an important material consideration to which I attach significant weight. A signed copy of the unilateral undertaking was presented at the hearing.
22. In constructing the proposed footbridge over the River Lea the development would dramatically improve access to that part of the Lee Valley Regional Park known as Tumbling Bay. With improved access the Park Authority, supported by British Waterways, has identified that increased management and maintenance of this area of the Park will be required. The Park Authority has sought a financial contribution to cover these costs. However, the Council has not sought the inclusion of specific sums for this matter. The Park Authority



and Council agreed at the hearing that this would be best resolved by discussion between both bodies with regard to how the monies already secured for public open space could be allocated and spent.

### *Conditions*

23. In order to ensure that the new and refurbished commercial development is compatible with adjacent housing its use needs to be limited to activities that should not harm living conditions. To realise the benefits of improved access to Tumbling Bay the provision of the footbridge needs to be secured. The trees and hedges that are to be retained as part of a landscaping scheme need to be protected. To ensure that the scheme integrates well with its setting and the benefit of the public open space in improving the visual amenity of the area is realised details of the lighting scheme and the arrangements for the management of the open space are necessary. In the interests of archaeology any remains on the site need to be identified, properly excavated and recorded. Future residents also need to be insulated from noise from the commercial development by good design.
24. Contamination on the site needs to be fully assessed in order to safeguard future residents, water and the surrounding environment. The risk of flooding on the site and the contribution of surface water run off to flooding needs to be minimised. Adequate provision for foul drainage must also be made. Foundation design must be carefully controlled to prevent the creation of a pathway that could result in the contamination of ground water. In the interests of highway safety full details of the residential site access are necessary and that access should not be used for any vehicles associated with the commercial part of the development. During construction details of construction vehicle movements, site access, parking, storage of materials and the provision of wheel washing facilities are necessary. In terms of layout precise details of service roads are required.
25. I have required all these matters by condition, revising the Council's suggested conditions where necessary to better reflect the requirements of Circular 11/95 'The Use of Conditions in Planning Permissions'. It is not necessary for a separate condition regarding the provision of visibility splays as full details of the junction is required by a separate condition. Similarly, with the use of the sustainable urban drainage condition, it is no longer necessary to use the suggested condition regarding surface water drainage. The design of the public open space constitutes landscaping which is a matter reserved for future approval by the Council and so a condition regarding this is also unnecessary. A condition requiring a health and safety risk assessment and method statement for work adjacent to the river has been suggested. However, as it would duplicate the requirements of health and safety legislation it too is unnecessary.

### **Conclusion**

26. The benefits of the mixed use nature of the proposal in terms of employment, affordable housing and environmental improvements outweigh the adverse impact on the supply of employment land that I have described. I therefore intend to allow the appeal.

### **Schedule of Conditions**

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The refurbished units and new office accommodation shall only be used for B1, B2 and B8 uses of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended and for no other purpose.
- 5) Prior to first occupation of more than 50% of the dwellings to be constructed on the site under this permission the footbridge over the River Lea to Tumbling Bay shall have been constructed and brought into use.
- 6) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local planning Authority in accordance with relevant British Standards (e.g. BS5837:1991), for the duration of the works on site and until at least 5 years following contractual completion of the approved development. In the event that any trees or hedging which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 7) No development shall take place until details of the lighting scheme and details of the management of the public open space have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details before any of the dwellings hereby permitted are first occupied.
- 8) No development shall take place within the proposed development site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 9) No development shall take place until a scheme providing for the insulation of the proposed dwellings against the transmission of noise and vibration from the neighbouring commercial premises, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details before any of the dwellings hereby permitted are first occupied.

- 10) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- ground waters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

- 11) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation
- 12) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority

- 13) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

- 14) The development permitted shall only be carried out in accordance with the approved drawing PA.183/500/302B. An 8m buffer will be provided at all points along the river with the exception of the restriction to 6m at the building shown on this plan.
- 15) The development shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Halcrow – June 2008 and mitigation measures contained within it.
- 16) No building hereby permitted shall be occupied until a sustainable urban drainage system has been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. The submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 17) Before first occupation of any of the buildings hereby permitted foul drainage works shall have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 18) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to ground water. The development shall be carried out in accordance with the approved details.
- 19) No development shall begin until such time as full details of the estate road junction onto Widbury Hill have been submitted to and approved by the Local Planning Authority. No dwelling shall be occupied until such time as the access has been constructed in accordance with the approved details.
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- 20) The vehicular access to and egress from the B1, B2 and B8 use units for all commercial vehicles shall be via the north western access onto Widbury Hill and not the central access to the north of the site onto Widbury Hill.
- 21) No development shall begin until details of the proposed service roads, including sections, gradients and method of surface water disposal have been approved by the Local Planning Authority. No dwelling shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans.
- 22) No works shall commence on site until wheel washing facilities for construction traffic have been installed in accordance with details submitted to and approved in writing by the Local Planning Authority. These facilities shall be kept in full working order at all times. Any vehicles leaving the site shall be cleaned before leaving the site so that no mud or waste materials are deposited on the public highway.
- 23) All areas for parking and storage and delivery of materials associated with the construction of this, or any reserved matters development shall be provided within the site on land which is not public highway and the use of such areas must not interfere with the use of the public highway.
- 24) Construction of the development hereby approved shall not commence until details of construction vehicle movements and construction access arrangements are submitted to and approved by the Local Planning Authority.

*Ian Radcliffe*

Inspector

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Planning obligations guidance – toolkit for Hertfordshire
- 2 Lee Valley Estates Brochure
- 3 Statement of Stephen Wilkinson, Lee Valley Regional Park
- 4 Lee Valley Park Plan (CD)
- 5 Occupancy of The Coachworks
- 6 Sec 106 document

PLANS SUBMITTED AT THE HEARING

- A Layout of The Coachworks



# 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

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Decision date:  
21 July 2009

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## Appeal Ref: APP/J1915/A/09/2100798

### 1 & 2 Pryors Close, Bishops Stortford, Herts CM23 5JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr D Mason against the decision of East Hertfordshire District Council.
- The application Ref 3/08/1760/OP, dated 22 September 2008, was refused by notice dated 2 December 2008.
- The development proposed is 8 one bedroom apartments.

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### Procedural matter

1. The application was in outline, with all matters reserved. It was accompanied by a plan showing an illustrative scheme, but this did not form part of the application.

### Decision

2. I dismiss the appeal.

### Main issue

3. There is one main issue in this case. That is the effect of the proposal on the character and appearance of the area.

### Reasons

4. The appeal site is within the built up area of the town, and is located at the junction of Pryors Close (a cul de sac) and Hallingbury Road (the A1060). It is currently occupied by a pair of semi-detached dwellings, which are similar to those in the remainder of Pryors Close. Pryors Close is entirely residential, whilst the main road includes a wider range of uses.
5. Given the location of the site within a built up area, there is no reason why the site should not, in principle, be redeveloped for housing. However, the corner location of the site makes it particularly sensitive. The fact that no.1 has a splayed garden with an appreciably greater area than most others in Pryors Close may allow for more development on the site, but this in turn increases the importance of ensuring that the scheme is compatible with the area.
6. The relevant policies<sup>1</sup> in the East Herts Local Plan Second Review (2007) (LP), state that development should be well sited in relation to surrounding buildings

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<sup>1</sup> HSG7 and ENV1

and complement the character of the local area. I am not persuaded that the proposal complies with this approach.

7. Pryors Close is characterised by detached and semi-detached houses, with a regular rhythm and broadly comparable gaps between the dwellings. The areas in front of the dwellings include drives and car parking, although significant garden space generally remains. From what I could see on site, the back gardens appear generally undeveloped.
8. In principle, a scheme which increases the density of the development on the appeal site may be acceptable, but any proposal should reflect its setting. In particular I am concerned that the amount of car parking, both at the front and the rear of the buildings, may be intrusive and out of keeping with the area. I have considered the illustrative plan to see if it demonstrates an acceptable solution. However it shows six parking spaces at the front and seven spaces at the rear, with most of the amenity area appearing as little more than an afterthought once the car parking has been accommodated. In particular the area in front of the eastern block would be dominated by parking. This plan does not reassure me that the development would be readily accommodated into the streetscene.
9. I am also concerned with the way in which the building(s) would appear in this setting. Although the front elevation of the development could doubtless be designed to resemble detached dwellings, as shown on the illustrative plans, there are a number of features which could lead to the scheme appearing at odds with its setting. In particular, I am concerned that the introduction of an access road to serve the rear area might be necessary – as shown on the illustrative plans – and that this would introduce a feature not currently present in the area. If the development were to be set back from the frontage close to the junction, again as suggested on the illustrative plans, this would be a further uncharacteristic feature in Pryors Close, where the existing dwellings are more regularly arranged.
10. Overall, I consider the proposal would harm the character and appearance of the area, and that it would conflict with the LP policies I summarised above.

#### **Other matters and conclusion**

11. I have considered the appellant's argument that this is a sustainable location and that the proposal would represent a better use of land than the existing dwellings. I have no reason to disagree, but this does not outweigh the harm which the proposal would cause to the area.
12. I have also noted the appellant's statement that the proposal would add to the provision of smaller units, for which there is a local need. However no evidence has been put forward of any such local need, and I therefore do not accord this argument any great weight.
13. The Council has also raised concern about the effect of the proposal on the living conditions of adjoining residents. This matter has also been raised by neighbours. However, given the outline nature of the proposal, I am not persuaded that a development for eight apartments would necessarily harm neighbours' amenity, and this matter does not add to my concern about the scheme.



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

*P. J. G. Ware*

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

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Decision date:  
21 July 2009

**Appeal Ref: APP/J1915/A/09/2098793**

**86 Barrells Down Road, Bishop's Stortford, Hertfordshire, CM23 2SX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Rosemary Milford against the decision of East Herts Council.
- The application Ref 3/08/1885/FP, dated 23 October 2008, was refused by notice dated 21 January 2009.
- The development proposed is the construction of a two storey extension to replace an existing single storey extension.

## Decision

1. I allow the appeal, and grant planning permission for the construction of a two storey extension to replace an existing single storey extension at 86 Barrells Down Road, Bishop's Stortford, Hertfordshire, CM23 2SX in accordance with the terms of the application, Ref 3/08/1885/FP, dated 23 October 2008, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The external materials used in the construction of the development hereby permitted shall match those used on the original house.
  - 3) Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting, or modifying that Order) no windows, doors or openings other than those expressly authorised by this permission shall be constructed at any time on the north facing side wall of the extension hereby permitted.

## Clarification

2. The appellant has submitted an additional plan, no'd D with her appeal papers, which shows an isometric view of the proposed extension together with potential proposals for the replacement of the existing first floor rear window at no 88 Barrells Down Road.
3. However that plan was not part of the original planning application and was not the subject of consultation at that time with neighbouring residents or the Town Council. Therefore I have not taken into account Plan D, or the offer to increase the size of the neighbour's first floor rear facing window at 88 Barrells Down Road.

### **Main Issue**

4. I consider that the main issue in this appeal is the effect of the development on the living conditions of the occupiers of adjacent properties, in relation to access to light, and outlook.

### **Reasons**

5. The appeal building is one of a terrace of similar cottages, which although forming a very regular and well defined built form in the streetscene, have all been altered or extended to one degree or another, at the rear. The appeal building is a case in point and has a single storey rear extension, approx 3.450 metres in depth. The adjoining property at no 84 has a flat roofed two storey rear extension to a similar depth, and no 88 has a single storey rear extension.
6. The plots are all quite narrow, and the Council rightly exercises caution in the degree to which it allows further extensions at the rear of properties in this terrace, because of the potential for harm to be caused to the living conditions of other occupiers. In this context, the Council considers that this appeal proposal is in conflict with Policy ENV6 of the East Hertfordshire Local Plan Second Review April 2007. In addition Policy ENV5 is also relevant in my view, because of the inter - relationship between both policies.
7. The proposed two storey rear extension would sit on an approximate east - west axis, and would be likely to cause a small degree of overshadowing and loss of light to the first floor rear facing window in the adjoining property, no 88 as a result of the extension's height and depth. There would be no such impact on no 84, because that property already benefits from a two storey rear extension itself.
8. Criteria (c) in Policy ENV6, advises that extensions which would significantly detract from the amenities of any neighbouring property by shadowing or other reason will not be permitted. Policy ENV5 requires that extensions should not affect the amenities of adjoining dwellings in any significant way.
9. However the first floor rear window in no 88 would still be likely to receive a reasonable degree of light for much of the day, because of its orientation and relationship with the sun. This window is also some distance from the side boundary with no 86, and is at first floor level and as a result I do not consider that the outlook from that window would be significantly harmed by this proposal either.
10. I have noted that the Council has not submitted any detailed evidence on the extent of shading or loss of light, or on the degree to which the outlook from that particular window would be affected, to support its contention that the harm caused would be significant, and that this development would therefore be in conflict with Policies ENV5 and ENV6 in the Local Plan.
11. I conclude therefore that the proposed extension would not harm the living conditions of the occupiers of adjacent properties by way of loss of light or outlook, and that there would be no conflict with either Policy ENV5 or Policy ENV6 of the East Hertfordshire Local Plan Second Review 2007.

**Conditions**

12. I have taken into account the conditions that the Council has suggested in my decision. Condition 1 is the normal time limit condition. Condition 2 is also necessary in order to maintain the character and appearance of the area and the appearance of the appeal building.
13. In addition the Council has suggested that a third condition is needed, which would preclude the insertion of any new windows, doors or other openings in the flank elevations of the extension. This condition is required in order to maintain the privacy of the occupiers of adjacent properties, although the condition need only refer to the wall on the northern side since the other flank wall abuts the existing two storey rear extension at no 84.

**Conclusions**

14. I conclude that the proposed two storey rear extension would not harm the living conditions of the occupiers of adjacent properties, that there would therefore be no conflict with either Policy ENV5 or Policy ENV6 of the East Hertfordshire Local Plan Second Review 2007 and that this appeal should be allowed and planning permission granted subject to conditions.

*Chris Watts*

INSPECTOR



# Appeal Decision

Site visit made on 30 June 2009

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

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

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Decision date:  
24 July 2009

**Appeal Ref: APP/J1915/X/09/2098148**

**No. 14 North Road Avenue, Hertford SG14 2BT**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal by Mr & Mrs Alistair Preacher against the decision of East Hertfordshire District Council.
- The application ref. 3/08/2028/CL dated 25 November 2008, was refused by notice dated 26 January 2009.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is the construction of a gable end to the side of the house, and of a flat roofed dormer to the rear to make a loft conversion viable.

**Summary of decision: The appeal is allowed and a certificate of lawfulness of proposed use or development is issued in the terms set out below in the Formal Decision.**

## Main issue

1. The question to be answered is whether the proposed development would be permitted development under the provisions of Class B Part 1 of Schedule 2<sup>1</sup> to The Town and Country Planning (General Permitted Development) Order 1995 as amended (the GPDO).

## Reasons

2. The appeal property is a two-storey semi-detached house built principally of brick, with a plain clay tile hipped roof. Areas of the walls are finished with pebbledash and tile-hanging.
3. The appeal proposals are to construct a double-pitched roof with a gable end to the side of the house, and a flat-roofed dormer to the back.
4. Class B of the relevant part of the GPDO permits the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Paragraph B.1 then excludes various forms of development, and paragraph B.2 places conditions on development that would be permitted.
5. In this case the Council do not raise any objections to the hip-to-gable conversion, or to the overall cubic content of the enlargements, and I concur with their view in these respects. However, they object to the dormer on the

<sup>1</sup> As substituted by the Schedule to The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008.

grounds that it would not comply with condition (a) of paragraph B.2, which says that the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

6. I note that the condition does not require *matching* materials, or even materials of the same or similar *type*, but materials of similar appearance. Furthermore, there is no condition purporting to control the form of a development, as for instance flat or pitched roofs over dormers. However, it appears to me that there would be a number of factors to be considered in each particular case. Amongst these would be the colour of the material, and its prominence/visibility on the extension.
7. In this case I can see no reason that a flat roofing material could not be chosen that would have a similar colour to pebbledash, clay tile or brick. But, perhaps more importantly, the height of flat roof and its relationship to possible nearby viewpoints would be such that it would be virtually unseen. In consequence, I consider the relevant condition could be met.
8. For the reasons given above and having regard to all other matters raised, I am satisfied that the Council's refusal to grant a certificate of lawfulness of proposed use or development was not well-founded and that the appeal should succeed. I shall exercise the powers transferred to me under Section 195(2) of the 1990 Act as amended.

**Formal Decision**

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

*Stephen Brown*

**INSPECTOR**



# Lawful Development Certificate

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gov.uk

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 25 November 2008 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development proposed is permitted under the provisions of Class B Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) Order 1995 as amended.

Signed

*Stephen Brown*

INSPECTOR

Date: 24 July 2009

Reference: **APP/J1915/X/09/2098148**

### ***First Schedule***

The construction of a gable end to the side of the house, and of a flat roofed dormer to the rear to make a loft conversion viable.

### ***Second Schedule***

Land at no. 14 North Road Avenue, Hertford SG14 2BT.

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 /operations 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/operation 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 my decision  
dated: 24 July 2009

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

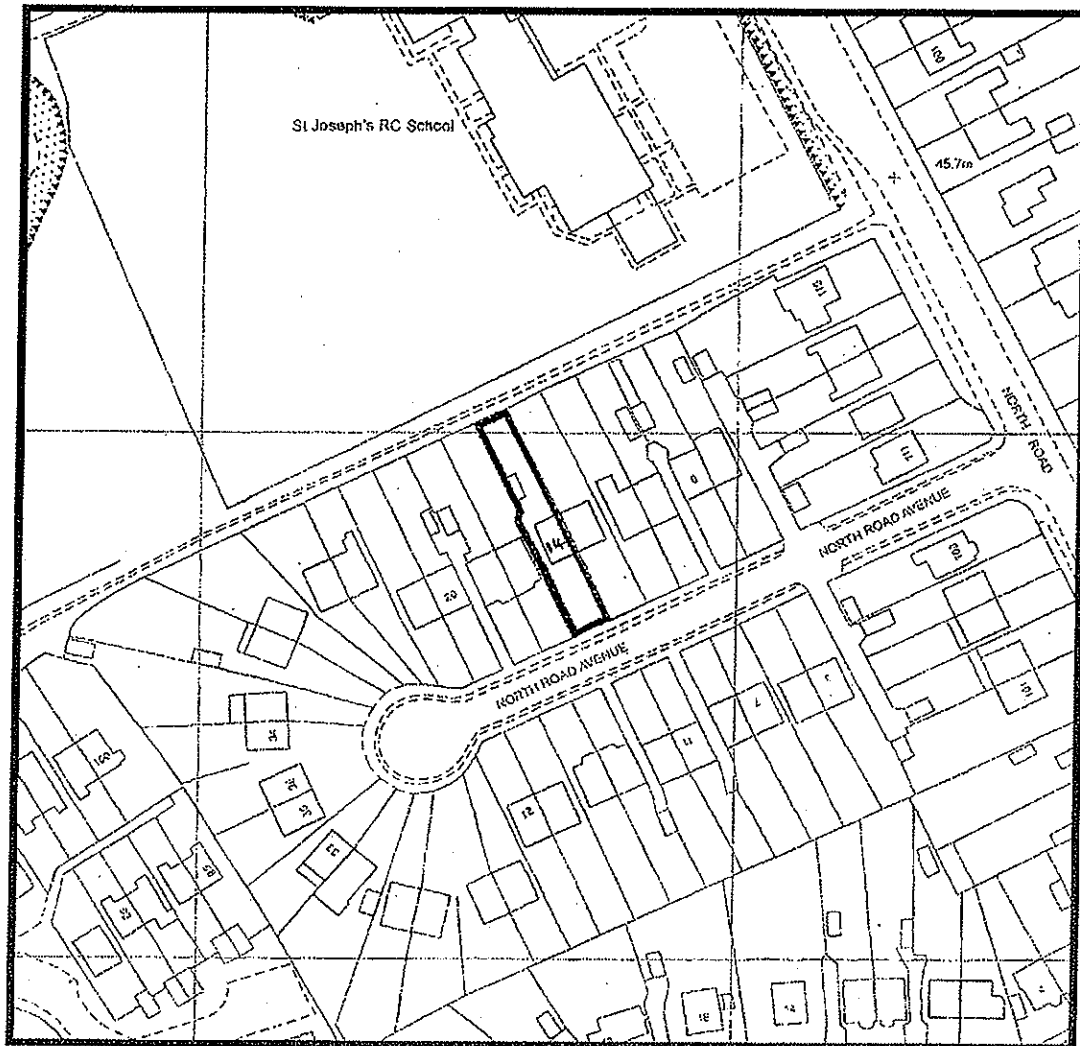
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Scale: DO NOT SCALE

**Land at: 14 North Road Avenue,  
Hertford SG14 2BT**

**Reference:  
APP/ J1915/X/09/2098148**





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Development  
Control

30 JUL 2009

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

Your Ref: 3090122LB

Our Ref: APP/J1915/E/09/2104972/NWF  
Further appeal references at foot of letter

Date: 29 July 2009

Dear Sir/Madam

**Planning (Listed Buildings and Conservation Areas) Act 1990 and Town and Country Planning (Control of Advertisements) (England) Regulations 2007 Appeals by Mr Neil Cooper  
Site at Coopers Of Stortford, 11 Bridge Street, Bishop's Stortford, CM23 2JU**

I am writing to tell you that the appeals, reference numbers 2104972 & 2105041 have been withdrawn and the file is closed.

The arrangements have been cancelled.

Yours sincerely

Susan Dibble

208B

**Further appeal references:- 2105041**

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

