



Appeal Decision

Site visit made on 24 November 2009

by **Christina Downes** Bsc DipTP MRTPI

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

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Decision date:
4 December 2009

Appeal Ref: APP/J1915/A/09/2108807

Wood Cottage, Robins Nest Hill, Little Berkhamsted, Herts SG13 8LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr J Gedye against the decision of East Hertfordshire District Council.
- The application Ref 3/08/1942/FP, dated 12 November 2008, was refused by notice dated 22 January 2009.
- The development proposed is a garage and removal of existing garage.

Decision

1. For the reasons given below, I dismiss this appeal.

Reasons

The Matter of Inappropriate Development in the Green Belt

2. There is no dispute that the appeal site is in the Metropolitan Green Belt. The proposal is for a detached garage/ workshop with studio/ office accommodation above. It would stand some distance in front of Wood Cottage and to my mind should be considered as a separate domestic outbuilding rather than as an extension to that property. Policy GBC1 in the East Herts Local Plan Second Review (LP) indicates the circumstances in which development will not be considered inappropriate in the Green Belt. This is in accordance with Planning Policy Guidance Note 2: *Green Belts* (PPG 2) and does not include the erection of residential ancillary outbuildings. I note the views of the Council and the Appellant on the matter but the proposed building is considerably larger than the garage it replaces. Taking account of national and local policy I have no doubt that the proposal is inappropriate development in the Green Belt and is therefore, by definition, harmful.

The Effect on Openness and Rural Character

3. The existing garage is a simple, modest sized open fronted wooden structure. Although the replacement building would be in roughly the same location it would have a substantially larger "L" shaped footprint. Its roof would be much more steeply pitched with a higher ridge to accommodate the office/ studio space on the upper floor. There would be two dormer windows in the front elevation. The development would result in a substantial increase in the bulk and mass of built development on this part of the site and would cause a consequent loss of openness. Openness is the most important attribute of the Green Belt and this adds to the harm arising from the appeal proposal.
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4. Although the appeal site is within the village of Little Berkhamsted it is a semi rural location and countryside policies apply. The Appellant describes the proposal as being designed to resemble a traditional outbuilding. Nevertheless, I consider that the structure would have an essentially domestic appearance. Taking account of its height, bulk and position forward of the main house it would not appear as a subservient or insignificant feature within this residential curtilage, in my opinion. There may be other examples of this type of outbuilding in Little Berkhamsted and the Green Belt but this does not justify a harmful development at the appeal site.
5. I appreciate that the intervening trees would provide screening from the road and that the realignment of the drive would allow further new planting. Nevertheless there would undoubtedly be views along the entrance driveway and from along the frontage when the trees are not in leaf. The development would be harmful to the open and rural character of the area and the Green Belt and would be contrary to LP Policies ENV1 and ENV5.

The Effect on Trees

6. There would be a need to remove two small trees to accommodate the building and the realigned driveway. Furthermore, in my judgement the row of holly trees that adjoin the rear boundary would be so close to the building that they would be unlikely to survive the development, notwithstanding the use of specialist foundations. I understand that the trees are protected by a Tree Preservation Order although it is very unclear from the information that the Council has provided whether all are included or only some of them.
7. However the specimens that would be lost are not, in my opinion, of particular significance in terms of their public amenity value. This is because it is the mature trees between the proposed building and the road that are most important and these need not be affected with proper measures for their protection. Whilst I note the Council's concern about future pressure to remove or prune the trees I do not consider that this would be a likely problem in view of the intended use of the building and the position of the main upper floor windows in the eastern roof slope. For all of these reasons I do not consider that there would be undue harm to important trees or conflict with LP Policies ENV2 and ENV11 in this respect.

The Effect on the Character and Appearance of the Little Berkhamsted Conservation Area

8. The appeal site is at the northern end of the conservation area. This is centred on the village and its church and the trees and greenery provide an attractive setting for buildings of various sizes and styles. There are examples of large dwellings with outbuildings in wooded plots but the village has a rural quality that is an important part of its character. Even though I am satisfied that there would be no adverse impact on important trees I have already concluded that the appeal development would diminish the open and rural character of the area. For this reason I consider that it would fail to preserve the character and appearance of the Little Berkhamsted Conservation Area and would thus conflict with LP Policy BH6.

The Effect on the Living Conditions of the Occupiers of 36 Robins Nest Hill

9. I was invited to view the appeal site from the adjoining property. I noted that the main window serving the living area is in relatively close proximity to the common boundary. This is an unusual property with an overhanging thatched roof and heavily mullioned windows. The room in question extends some way back and although there are secondary side windows, these are relatively small. This is clearly a room that is highly valued by the family as an area in which to relax, eat and cook. The appeal site is at a slightly higher level and the new outbuilding would be within about a metre of the boundary. In view of its size and mass I believe that it would appear as a dominant and overbearing feature when viewed from the main window to which I have referred. Furthermore, taking account of the rather unusual layout and design of 36 Robins Nest Hill I consider that the amount of daylight penetration is likely to be materially diminished.
10. I have taken account of the existence of the holly trees which do have an effect on light and outlook at the moment. However as I have already commented it is likely that these trees would be removed and there would be little effective space to introduce replacement planting on the Appellant's side. I consider that the impacts arising from the new outbuilding due to its height and mass would be considerably worse. I have noted the neighbours' concerns about noise from the workshop but this would be an ancillary domestic use and unlikely to result in unreasonable disturbance. Nevertheless, for the reasons I have given I consider that the development would adversely affect the living conditions of the neighbouring occupiers and that this would conflict with LP Policies ENV1 and ENV5.

Overall Conclusions

11. In conclusion, the new outbuilding would be inappropriate development and would diminish the openness of the Green Belt. These two factors weigh substantially against the appeal proposal. Whilst I have not found that there would be undue harm to important trees there would be an adverse effect on the rural character of the area and the development would fail to preserve the character and appearance of the Little Berkhamsted Conservation Area. There would also be harm to the living conditions of the occupiers of 36 Robins Nest Hill. The Appellant has put forward no considerations that would clearly outweigh the harm that I have identified. In the circumstances very special circumstances do not exist in this case and the appeal shall not succeed.

Christina Downes

INSPECTOR



Appeal Decisions

Site visit made on 1 December 2009

by **Nigel Burrows BA MRTPI**

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Decision date:
7 December 2009

Appeal Ref: APP/J1915/C/09/2109694

92 (otherwise known as Unit C, 90-96) South Street, Bishops Stortford, Herts, CM23 3BG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Hatice Sapkur against an enforcement notice issued by East Hertfordshire District Council.
- The Council's reference is E/08/0587/A.
- The notice was issued on 20 July 2009.
- The breach of planning control as alleged in the notice is the erection of security shutters, shutter box and guide rails.
- The requirements of the notice are remove the external shutters, shutter box and guide rails.
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation

Appeal Ref: APP/J1915/A/09/2109716

92 South Street, Bishops Stortford, CM23 3BG

- 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 Hatice Sapkur against the decision of East Hertfordshire District Council.
- The application Ref 3/08/2038/FP, dated 3 December 2008, was refused by notice dated 9 February 2009.
- The development proposed is described as 'security shutters on the front elevation of the property'.

Summary of Decision: The appeal is dismissed

The Section 174 ground (a) appeal and the Section 78 appeal

1. The main issue relating to these appeals is the effect of the development on the character and appearance of the building and the surrounding area.
 2. The development plan includes the East Herts Local Plan Second Review, adopted in April 2007. Policy ENV1 indicates that all development will be expected to incorporate a high standard of design and layout and to reflect local distinctiveness. The Council has also referred to a document entitled 'Shopfront Security'; however, I note the Planning Officer's report indicates this is unadopted. I have no information about the current status of this document, or the extent of public consultation involved in its preparation. Consequently, I am unable to give it any weight in my consideration of these appeals.
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3. The appeals relate to a shop situated on the western side of South Street, on the edge of Bishops Stortford Town Centre and the Conservation Area. The shop is part of a four storey development comprising four retail units on the ground floor and residential accommodation above. The Council indicates this development was permitted in 2003.
4. The shop premises are stocked with a variety of items and products typically found in a small supermarket, including alcohol and cigarettes. The submissions made on the appellant's behalf indicate the planning application proposed a solid shutter, whereas the shutter which has been installed is a see-through design. However, I note the application drawings included a section through the installation ('Operational Detail') which indicated that its design would incorporate perforated shutter slats. In effect, this appears to resemble the design of the shutter that has been installed on the premises.
5. The surface mounted shutter box is hidden behind an awning. Nevertheless, the roller shutter, when lowered, appears stark and utilitarian. The adverse impact of the shutter is accentuated by the fact that it obscures the whole width of the shop front, which is an important feature of the building. It also detracts from the overall rhythm of the ground floor façade of the building which derives, in part, from the similarity of the existing shopfronts. To my mind it has introduced an unduly defensive, almost 'fortress-like' character to the premises. It detracts to an unacceptable degree from the character and appearance of the building and appears intrusive in the street scene.
6. The appellant indicates the shop is open 7 days a week between 0700 hours and midnight and, consequently, the shutter is only lowered outside these trading hours. However, it remains visible for significant periods of time when the shop is closed. Furthermore, I could not discount the possibility that the trading hours might be reduced, if not by the appellant then by future occupiers of the unit, thereby increasing the period when the shutter is noticeable and prominent within the street scene.
7. The appellant argues the shutter is needed to provide additional security for the shop as required by his insurance company. It is alleged the premises are in a relatively vulnerable location and without the shutter he would not have been able to obtain insurance, or open the shop here. The Council points out that no incidents of theft or vandalism have been cited in support of this argument. I observed the premises are protected by concrete bollards along the edge of the forecourt. Whilst it is alleged the shutter needs to be on the outside of the shopfront to protect the window, I agree with the Council that there might be other ways to address the security concerns, including the use of toughened glass and/or an internal shutter. In any event, I consider the perceived benefits of the existing shutter are outweighed by its adverse visual impact.
8. The appellant contends the shutter is no different to others installed on properties within the Town Centre and Conservation Area; photographs of three properties have been provided. However, I have no information concerning the planning circumstances which led to the installation of these particular shutters. In any event, to my mind, they demonstrate the adverse impact that such installations can have on the façade of a building. Therefore, I am not persuaded they are good examples to follow.
9. The appellant emphasises the appeal property is not within a conservation area. The inference appears to be that it is not within a location where an especially high standard of design will be required. However, the Council's concern to secure high quality design is consistent with the Government's objectives for the planning system. Planning Policy Statement 1 'Delivering Sustainable Development' (PPS 1) indicates that design which is inappropriate to its context, or which fails to take the opportunities available to improve the character and quality of an area, should not be accepted.
10. I consider the objections to this shutter could not be overcome by planning conditions. I conclude the development harms the character and appearance of the building and

the surrounding area and it conflicts with the objectives of policy ENV1. Accordingly, I conclude the S.174 ground (a) appeal and the S.78 appeal should not succeed.

The Section 174 appeal on ground (g)

11. I appreciate the refusal of planning permission for the shutter might potentially have some consequences for the continued operation of the business. Furthermore, I could not rule out the possibility there might be scope for the main parties to agree the details of an alternative arrangement for enhancing the security of the shop. I therefore intend to vary the period for compliance with the enforcement notice to 6 months, as requested by the appellant, in order to allow him more time to explore with the Council whether an acceptable alternative solution can be found. On balance, I conclude this compliance period would be a more proportionate and reasonable response to the breach of control. The ground (g) appeal succeeds to this extent.

Conclusions

12. For the reasons given above, I conclude that the notice should be upheld with a variation to the period for compliance. I further conclude the S.78 appeal should be dismissed. I have taken into account all the other matters raised in the representations but I find they do not outweigh the main considerations that have led to my decisions.

Formal Decisions

Appeal Ref: APP/J1915/C/09/2109694

13. I direct that the enforcement notice be varied by the deletion of '2 months' and the substitution of '6 months' as the period for compliance with the requirements of paragraph 5.
14. Subject to this variation I dismiss the appeal, uphold the notice, and refuse planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal Ref: APP/J1915/A/09/2109716

15. I dismiss the appeal.

Nigel Burrows

INSPECTOR



Appeal Decision

Site visit made on 9 October 2009

by **AJ King** BA(Hons) Dip TP MRTPI

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Decision date:
3 December 2009

Appeal Ref: APP/J1915/A/09/2105311

Greenlands, Wood End, Ardeley, Herts, SG2 7AZ

- 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 R A Jameson against the decision of East Hertfordshire District Council.
- The application Ref 3/08/2101/FP, dated 17 December 2008, was refused by notice dated 24 February 2009.
- The development proposed is a single storey garden room extension.

Decision

1. I dismiss the appeal.

Procedural matters

2. In addition to the proposed single storey garden room extension, the appeal drawings show other works to the appeal dwelling. However, it has been made clear by the appellant that these do not form part of the appeal proposal.
3. The appellant has drawn my attention to a Certificate of Lawful Use or Development (CoL) for a rear extension (CoL extension) at the appeal property (3/09/0592/CL), which is capable of implementation. Although the appellant has explained that he does not intend to construct both extensions and has suggested a condition to withdraw permitted development rights to enlarge the premises beyond the proposed side extension, such a condition could not act retrospectively and there would remain the possibility that the appellant (or a future occupier of the dwelling) could implement the CoL extension first. In that scenario, the condition removing permitted development rights and thus rendering the CoL impotent would not take effect until it was too late.
4. Whilst the appellant's intentions in this case are no doubt honourable, circumstances may change, for example the appellant might move on and a future occupier might take a different approach. Therefore, in the absence of a signed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as substituted by Section 12 of the Planning and Compensation Act 1991) drafted so as to ensure that the CoL extension, or any other rear extension, could not proceed before the proposed side extension, I cannot discount the possibility of both extensions being built if the appeal is allowed.

Main issues

5. The main issues are whether the proposed development either individually or cumulatively with the CoL extension would (i) disproportionately alter the size of the appeal dwelling; and (ii) preserve or enhance the character or appearance of the Conservation Area.

Reasons

6. The appeal property is a 2 storey dwelling set within a substantial garden. The appeal site is linked with, but situated some distance from, the village of Wood End in a relatively remote, rural location. Public footpaths/rights of way run past and close to the site, one of which connects the appeal site to the main part of the village.

Proportionality

7. Policy ENV5 in the adopted East Herts Local Plan Second Review, April 2007 (Local Plan) seeks to ensure, amongst other things, that extensions to dwellings outside the main settlements and villages would not, either individually or cumulatively, disproportionately alter the size of the original dwelling. The supporting text to the above policy explains that it is not possible to define what size of extension is likely to be permissible given the range of dwelling types and sizes concerned.
8. The Council and the appellant have differing interpretations as to what constitutes the original dwelling in this case and there is no definition (from the Local Plan or such like) before me as to what factors the Council would normally apply to such a consideration. From what I have seen and read, however, it appears clear that the thatched cottage which previously occupied the site for many years was effectively demolished and replaced, on a similar footprint, by the existing dwelling in the late 1980's. For the purposes of applying Local Plan Policy ENV5, therefore, I consider that the original dwelling is that which was substantially rebuilt.
9. Since then, the dwelling has been extended but these are not, in my view, obvious additions and they have not substantially or disproportionately increased the size of the appeal dwelling. The proposed side extension would have a floor area of approximately 21 square metres and would form an addition to the northern (side) elevation of the appeal dwelling. In my opinion it would, considered in its own right, be an appropriately scaled extension that would sit comfortably alongside and complement the existing dwelling. In my view, the proposed extension combined with those extensions that have already taken place since the property was rebuilt would not disproportionately alter the size of the original dwelling.
10. However, the CoL extension would have a larger floor area than the proposed side extension. It would substantially extend the rear footprint of the dwelling, taking it further into the rear garden. If the proposed side extension were to be implemented after the CoL extension, then I consider that the proposed extension would, cumulatively with the CoL extension and those that have already taken place, disproportionately alter the size of the appeal dwelling.

11. For the above reasons, I therefore conclude that the proposed side extension would not, by itself, be disproportionate. However, cumulatively with other extensions (including the CoL extension which could be implemented before the appeal proposal) it would disproportionately alter the size of the appeal dwelling. In the latter scenario, which for the reasons given above I have to treat as a possibility, the appeal proposal would not be consistent with that part of Local Plan Policy ENV5 where it is concerned with proportionality.

Conservation Area

12. The appeal dwelling, including the extensions added since the late 1980's, sits comfortably and attractively within its plot. The surrounding area is characterised by essentially open and attractive countryside, albeit, when viewed from the vehicular access to the west, the appeal dwelling is seen alongside a more substantial dwelling at The Spinney.
13. Because of the angle at which the appeal dwelling sits on the plot and because of mature hedgerows/planting on surrounding land, views of the proposed side extension from the front (i.e. views west to east) and from the public right of way running past the southern boundary of the appeal site would be very limited.
14. The proposed side extension and the CoL extension (were that to be built first) would be visible from the public footpath running south-west to north-east past the appeal site, especially to persons walking towards the appeal site from the village.
15. As set out above, I consider that the proposed extension in its own right would be appropriately and modestly scaled. The design would complement the existing building generally and more specifically the flank elevation on which it is proposed. In my opinion, the proposed single storey extension would be subservient to the main part of the 2 storey dwelling behind it. Furthermore, there would remain sufficient space between the extension and the boundary of the appeal site to ensure that it would not dominate views from or create a sense of urbanisation to passers by. For the same reasons, I consider that the proposed extension would not intrude into the openness or rural qualities of the surrounding area and would preserve the character and appearance of the Conservation Area.
16. By contrast, I consider that the CoL extension would be seen from public vantage points as a bulkier and less sympathetic addition to the appeal dwelling. The character and attractiveness of the rear elevation would be adversely affected by a uniform ground floor building line across the whole rear elevation, in place of the character and definition currently provided by the projecting 2 storey element.
17. In my view, the proposed side extension, whilst simple and appropriate in its own right, would, if combined with the CoL extension be viewed as part of a collective group of bulky and unsympathetic set of additions to the rear/side of the dwelling.
18. I therefore conclude on this issue that, on its own, the appeal proposal would be acceptable. However, cumulatively with the CoL extension, the proposed development would not preserve the character and appearance of the

Conservation Area. In respect of the latter situation, the appeal proposal would not comply with Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990. Neither would it satisfy those parts of Local Plan Policies ENV1, ENV5 & BH5 that are concerned with quality of design, effects on character and appearance and rural qualities, and effects on Conservation Areas.

Conclusions

19. Whilst I have found in favour of the appeal proposal on the main issues when considered in isolation, I have explained above the significance of the CoL extension on my decision and it is this issue that weighs significantly and ultimately against the appeal proposal. Even though I accept that the appellant could implement the CoL extension in any event, this does not outweigh the harm that would arise should both extensions be implemented. Having regard to the above and to all other matters before me, I therefore conclude that the appeal should be dismissed.

AJ King

INSPECTOR



Appeal Decision

Site visit made on 7 December 2009

by **Roger Mather MA Dip Arch RIBA FRTPI**

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Decision date:
17 December 2009

Appeal A-Ref: APP/J1915/A/09/2106853

18 Fore Street, Hertford SG14 1BZ

- 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 brought by Mr G Giambrione against the decision of East Hertfordshire District Council.
- The application (Ref: 3/09/0048/FP) dated 12 January 2009, was refused by notice dated 1 April 2009.
- The development proposed is conversion of existing first and second floor residential accommodation into 4 self-contained flats.

Appeal B-Ref: APP/J1915/E/09/2106849

18 Fore Street, Hertford SG14 1BZ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compensation Act 1991, against a refusal to grant listed building consent.
- The appeal is brought by Mr G Giambrione against the decision of East Hertfordshire District Council.
- The application (Ref: 3/09/0049/LB) dated 12 January 2009, was refused by notice dated 1 April 2009.
- The works proposed are conversion of existing first and second floor residential accommodation into 4 self-contained flats.

Decisions

Appeal A-Ref: APP/J1915/A/09/2106853

1. I allow the appeal and grant planning permission for conversion of existing first and second floor residential accommodation into 4 self-contained flats at 18 Fore Street, Hertford SG14 1BZ in accordance with the terms of the application (Ref: 3/09/0048/FP) dated 12 January 2009, and the plans submitted with it, subject to the following conditions:
 1. The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 2. Plant and machinery shall not be operated or any construction works take place outside 0800 hours to 1800 hours Mondays to Fridays, 0800 hours to 1300 hours on Saturdays and not at all on Sundays or Public Holidays.
 3. Development shall not begin until full details of refuse storage has been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details.

4. No flat shall be occupied until communal television reception facilities have been installed in accordance with details to be submitted to and approved in writing by the local planning authority.

Appeal B-Ref: APP/J1915/E/09/2106849

2. I dismiss the appeal.

Main Issues

3. 18 Fore Street is an end of terrace three-storey building dating from the mid nineteenth Century, listed in grade II. It lies within the Hertford Conservation Area. There is no dispute that the proposed use of the first and second floors would harm neither the character nor the appearance of the Conservation Area, and I agree with that. The Council's overriding concern is the extent to which the proposed intensification of use and consequent internal alterations would harm the historic character of the building. From this, the written representations and my inspection of the building, I consider that the main issue raised by these appeals is whether the proposed works would preserve the special architectural and historic interest of the listed building.

Reasons for Decisions

4. Policy BH11 of the East Herts Local Plan Second Review April 2007 permits the change of use of a listed building, in whole or in part, where its special architectural or historic interest will be preserved. The Council's delegated Report makes reference to Local Plan Policy STC5 too, which is not included in my bundle of papers. However, the building lies within a sustainable town centre location where two flats above the existing shop would be converted to four, within the building envelope. Existing separate access would be maintained while satisfactory living conditions for future occupants would be achieved in relation to space standards; 2 one-bedroom flats each having a floor area of some 43sqm and 2 two-bedroom flats having floor areas of 85sqm and 92sqm would not represent an over-intensive use of the available space. Consequently, there are no compelling objections in principle to the intensification in use, provided the special architectural or historic interest of the listed building is preserved, as required by Policy BH11.
5. Further guidance is found in Planning Policy Guidance: Planning and the Historic Environment (PPG15), which represents well-established Government policy on the historic environment. Where the principle of altering a listed building is acceptable, PPG15 suggests that appropriate and sensitive alteration is rarely impossible if the parties show flexibility and imagination. This reinforces my findings above and seen in that light; I conclude that Local Plan Policy BH11 would be satisfied. Appeal A should therefore succeed.
6. As appeal B concerns listed building consent, I am required in determining this appeal to take account of section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, which states that in considering whether to grant listed building consent for any works, special regard shall be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Policy BH10 of the Local Plan reflects the thrust of the statutory requirement.

7. PPG15 states that applicants for listed building consent must be able to justify their proposals and will need to show why works, which would affect the character of a listed building, are desirable or necessary. While the intensification of use is not necessary for the continued use of the building, it would adapt it to provide 4 decent units of accommodation in the town centre as part of the restoration of the building, which is in need of repair. In support of the proposals, the appellant ascribes considerable weight to the fact that the interior was not inspected at the time of listing and there has been no subsequent assessment of the interior. However, the whole building is protected and as such, its interior enjoys no less a measure of protection.
8. To my mind, the most damaging aspect of the proposed works would be the impact on the proportions of historic rooms, and resultant plan form. PPG15 states that the plan of a listed building is one of its most important features. Consequently, as a general rule, the character, proportions and integrity of principal rooms should be preserved. Normally, principal rooms should not be sub-divided. The proposed works would sub-divide the large first-floor room on the frontage to provide a bathroom and kitchen off the living space, which would completely change its character and appearance. Similarly, compartmenting the large kitchens on both first and second floors to provide lobbies would be equally harmful, while the loss of any historic fireplace, kitchen range, cornicing or ceiling mouldings, as a result of extensive alterations and repairs to the building, would exacerbate the harm.
9. Paying special regard to the desirability of preserving the character of the listed building, I therefore conclude that the proposed works would result in an unacceptable loss of historic plan form and in a diminution of the splendid proportions and character of principal rooms. Appeal B fails on that count. To permit the works in these circumstances would be to disregard the special interest, which led to the listing of the building, as well as the duties imposed by the Act and guidance in PPG15, reflected in Policy BH10 of the Local Plan.
10. I have considered the Council's suggested conditions for appeal A in relation to the advice in Circular 11/95: The Use of Conditions in Planning Permissions. In addition to the standard time limit, it is necessary to prevent construction works and the use of machinery at unsociable times and at weekends and Public Holidays, to safeguard the living conditions of nearby households. Details of refuse facilities are necessary, in the interest of amenity while it is necessary to restrict the proliferation of telecommunication equipment, to preserve the special architectural interest of the listed building.
11. I have considered all other matters brought to my attention but none is of such significance as to outweigh the considerations that led to my conclusions on the main issue. Consequently, appeal A succeeds but appeal B does not succeed.

Roger Mather

INSPECTOR



Appeal Decision

Site visit made on 1 December 2009

by **Christine Thorby** MRTPI, IHBC

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Decision date:
8 December 2009

Appeal Ref: APP/J1915/A/09/2108146

29 Cromwell Road, Ware, Hertfordshire, SG12 7JZ

- 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 Harry Lawrence against the decision of East Hertfordshire District Council.
 - The application Ref 3/09/0139/FP, dated 26 January 2009, was refused by notice dated 23 March 2009.
 - The development proposed is a single storey front extension to front room.
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Decision

1. I dismiss the appeal.

Reasons

2. The main issue is the effect of the proposal on the character and appearance of the area. The appeal property is a semi-detached bungalow, one of a group of four pairs of bungalows set at an angle facing towards Cromwell Road. The street rises and the bungalows are set back from the road and this makes the group appear prominent in public views. With the exception of some minor alterations to windows and recessed porches, the flush frontages and long uninterrupted roof slopes have been retained and are important uniform features of the properties. Although there is a significant variety of architecture in the wider area, the symmetry of design of the four pairs of bungalows and their ordered grouping forms a distinct pattern of housing which contributes to the attractiveness of Cromwell Road.
3. The front windows and door of appeal property have been altered and the proposed extension would be very modest in size. However, the proposed front extension, even with a hipped roof and matching materials, would introduce a feature, not seen on any of the group of bungalows. The flush frontage and the uninterrupted roof slope would be lost and this would erode the symmetry and order of the group as a whole, detracting from the character and appearance of Cromwell Road. The proposal would therefore be contrary to the East Herts Local Plan Second Review policies ENV1, ENV5 and ENV6 which seek to protect local character.
4. I acknowledge that there were no objections from neighbours and I note the way in which the council dealt with the application. Nevertheless, none of these matters would outweigh the harmful effect of the proposal as I have set out.

Christine Thorby INSPECTOR



Appeal Decision

Site visit made on 24 November 2009

by **Christina Downes** Bsc DipTP MRTPI

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

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Decision date:
10 December 2009

Appeal Ref: APP/J1915/A/09/2108395

Legges Cottage, Wareside, Hertfordshire SG12 7SD

- 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 D Birchenough against the decision of East Hertfordshire District Council.
- The application Ref 3/09/0393/FP, dated 16 March 2009, was refused by notice dated 28 May 2009.
- The development proposed is relocation of approved hen house and conversion to form a one bedroom residential annexe.

Decision

1. For the reasons given below, I dismiss this appeal.

Reasons

2. The appeal site is in a countryside location and the hen house was erected pursuant to a planning permission granted in 2006. However, it was subsequently found that the building was above a high pressure gas main and the National Grid sought its removal. It has therefore been relocated elsewhere temporarily although planning permission has now been granted for its siting in the position currently sought in the appeal proposal. From the information before me it seems that the structure would stand on agricultural land that is now owned by the Appellant although it has no lawful residential use. The structure that I saw at my site visit is presently unfinished. The proposal involves elevational and internal changes for use as a residential annexe. The main issue is whether this use would have an unacceptable adverse effect on the character and appearance of the rural area and, if so, whether there are material factors that would override that harm.
3. Policy GBC3 in the East Herts Local Plan Second Review (LP) establishes the limited circumstances in which new development within rural areas may be acceptable. The proposal does not accord with any of its provisions, in my opinion. Although reference is made to the provision relating to adaptation and re-use of rural buildings, the appeal building has not yet been erected in its approved position and as far as I can see has never been used for its permitted purpose. It is therefore difficult to see how the proposal could be a "re-use". Even if it were, the requirements of the relevant LP Policy GBC9 specify that other uses compatible with a rural area should be explored before residential. There is no evidence that such an exercise has been undertaken. LP Policy ENV8 relates to residential annexes but as this is not within the residential curtilage it does not seem to me that its provisions are applicable. There is thus no policy support for the appeal project in the development plan.

4. Although I have not been supplied with a copy of the approved drawings for the hen house I doubt that it would have included the glazed patio doors and all the window openings now proposed. Whilst I appreciate that care has been taken to design a building in keeping with its countryside location the proposal has a domestic appearance. This is reinforced by its two parking spaces at the front. The building would be in a prominent and visible location within an open rural landscape. It would be some distance from the main house and to the east of the entrance driveway and another substantial outbuilding. Although there would be planting along the site boundaries it would be a relatively large structure that would appear as a separate dwelling in the rural scene, in my opinion. In the circumstances, I consider that the development would have an unacceptable adverse impact on the rural area that would be contrary to the relevant LP policies and in particular Policy GB3.
5. I sympathise with the position that the Appellant finds himself in. He has had to bear considerable financial costs to have the building moved and also for the necessary inspections to the National Grid pipework. He feels that the Council should have made him aware of the gas main prior to the original approval for the hen house, albeit that his own legal searches appear to have failed to establish its presence. I appreciate that the Appellant's mother would move into the new dwelling and that the sale of her property would help to meet the costs that have been, and have yet to be, incurred. However the building and its use would be in place long after these personal circumstances have ceased to exist. Taking account of its distance from Legges Cottage and its location outside of the residential curtilage I doubt that the occupation of this building could be reasonably tied to that property in perpetuity. It would effectively function as a separate dwelling unit for planning purposes.
6. I understand that the lady in question is in poor health and would benefit from living close to her family. However, there is no evidence that this is an essential requirement on medical grounds. I appreciate that there may be insufficient space in Legges Cottage itself to accommodate her and that a further extension may not be possible to this listed building. There is though a large outbuilding relatively close to the main dwelling. Whilst it may be convenient for the Appellant to use this for business purposes I am not aware that it has a lawful use for anything other than ancillary residential. It therefore seems to me that an alternative solution could be available if the Appellant considered that further accommodation is required.
7. I do not believe that the personal circumstances in this case are sufficient to override the very significant harm that would arise if the development were to be permitted. At the site visit I observed other converted barns, including at New Hall and Great Cozens. I do not know the circumstances of these cases and whether they are comparable with the appeal project. In any event I have considered the particular circumstances of this proposal and found it to be unacceptable for the reasons I have given. I have considered all other matters raised, including the letters in support of the scheme, but I have found nothing to alter my conclusion that the appeal should not succeed.

Christina Downes

INSPECTOR



Appeal Decision

Site visit made on 1 December 2009

by **Martin Joyce** DipTP MRTPI

an Inspector appointed by the Secretary of State
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Decision date:
9 December 2009

Appeal Ref: APP/J1915/X/09/2107623 28 Parker Avenue, Hertford SG14 3LA

- 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 is made by Mr S Jackson against the decision of the East Hertfordshire District Council.
- The application, Ref: 3/09/0456/CL, dated 25 March 2009, was refused by notice dated 13 May 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 a proposed loft conversion and existing hip roof changed to proposed gable end.

Summary of Decision: The appeal is allowed and a Certificate of Lawful Use or Development is issued, as set out in the Formal Decision below.

Procedural Matter

1. The description of the proposed development given above is taken from the application form. The Council's decision notice, however, refers to the proposal as a loft conversion with roof changed to gable end and flat roof rear dormer. This is factually correct but that I have no power to change the description of the development without the agreement of the appellant. Nevertheless, in this case, I note that the appellant uses the revised description in his grounds of appeal, and in his supporting statement. Therefore, I consider that this shows his acceptance of it as a matter of fact, and I shall deal with the appeal on the basis of this understanding.

Main issue

2. The main issue in this case is whether the proposed development would be permitted under the provisions of Class B of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) Order 1995 as amended (GPDO).

Reasoning

3. The appeal property is a two-storey semi-detached house, situated on the eastern side of Parker Avenue. The appellant wishes to convert loft space to provide an additional bedroom and an *en suite* bathroom. This would involve the extension of the existing hipped roof to form a gable end, and the erection of a flat-roofed rear dormer window. The dormer would have tile-hung sides but no material is specified for other surfaces, including the roof.
4. Class B of Part 1 of Schedule 2 to the GPDO states that the enlargement of a dwellinghouse consisting of an addition or alteration to its roof is permitted

development, but Section B.1 sets out five circumstances, or criteria, in which such an alteration would not be permitted. There is no dispute that all five matters in B.1 are either met or do not apply. The Council, however, have refused to issue an LDC on the grounds that Condition B.2(a) has not been satisfied¹. They contend that it is likely that felt would be used for the roof of the dormer and that this would be inappropriate as it would not be of a similar appearance to the materials of the existing house.

5. I am mindful of the fact that this is a *condition* rather than a *criterion* of Class B and, as such, I am doubtful as to the legitimacy of refusing an application on the basis that such a condition would not be met, before the development has taken place. However, of more crucial importance is the fact that the condition requires that external materials used shall be of similar *appearance* to those of the exterior of the existing dwellinghouse. This does not require, therefore, that they have to be of the same *type*, or even that they *match*, rather it must mean that factors such as visibility and overall effect on the appearance of the house when the development has been undertaken are relevant. Indeed, were they not to be of similar appearance then the Council would be able to consider enforcement action for a breach of this particular condition.
6. In this case, no material for the dormer roof is, as a matter of fact, specified. However, whilst the use of felt would not match any material used elsewhere on the appeal property, other external surfaces of the proposed dormer would comprise materials that currently exist, albeit that it would only be when they are in place that the extent to which they matched, in terms of appearance, could be assessed. As for the roof of the dormer, this would not be visible from any public viewpoint, and most probably in any private view, because of its height and its proximity to the ridge of the house. It follows that any material used on the dormer roof would not, in this case, have any appreciable impact on the external appearance of the property. I conclude that the materials that would be visible would be likely to be of a similar appearance to those used in the construction of the exterior of the existing dwelling.

Conclusions

7. For the reasons given above, and having regard to all other matters raised, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of development in respect of a loft conversion with roof changed to gable end and flat roof rear dormer at the appeal property was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under Section 195(2) of the 1990 Act as amended.

FORMAL DECISION

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

Martin Joyce INSPECTOR

¹ Section B.2 states that development is permitted by Class B subject to three conditions. Condition (a) is 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.



Lawful Development Certificate

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

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

IT IS HEREBY CERTIFIED that on 25 March 2009 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and hatched 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 of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) Order 1995 as amended.

Signed
Martin Joyce
Inspector

Date: 09.12.09
Reference: APP/J1915/X/09/2107623

First Schedule

Proposed loft conversion with roof changed to gable end and flat roof rear dormer.

Second Schedule

Land at 28 Parker Avenue, Hertford SG14 3LA

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: 09.12.09

by **Martin Joyce** DipTP MRTPI

**Land at 28 Parker Avenue, Hertford
SG14 3LA**

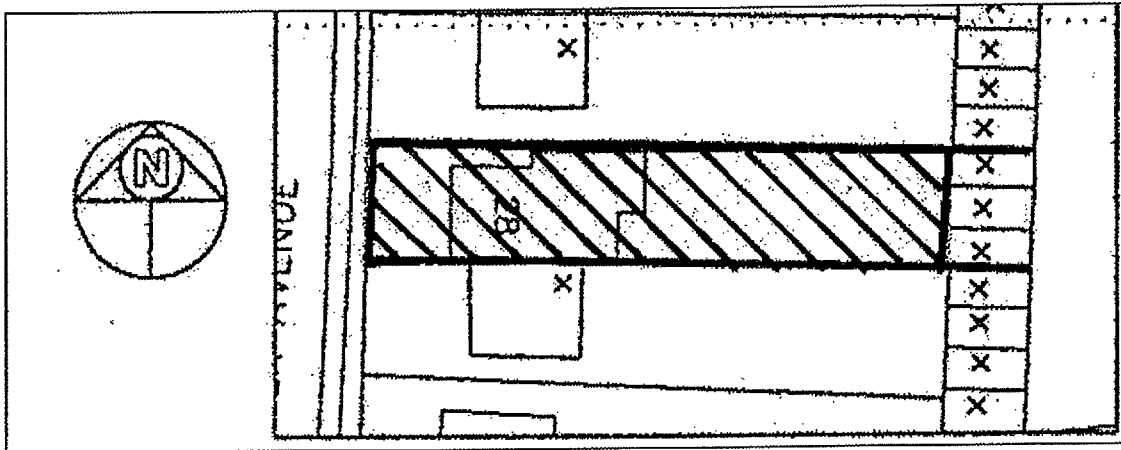
**Reference:
APP/J1915/X/09/2107623**

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Scale:

Not to scale





Appeal Decisions

Site visit made on 1 December 2009

by **Nigel Burrows BA MRTPI**

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

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Decision date:
16 December 2009

Appeal Ref: APP/J1915/C/09/2111965

14 Railway Street, Hertford, Herts, SG14 1BG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Thanh Duong against an enforcement notice issued by East Hertfordshire District Council.
- The Council's reference is E/09/0123/B.
- The notice was issued on 3 August 2009.
- The breach of planning control as alleged in the notice is unauthorised change of use from A1 (Retail) to Nail Bar (Sui Generis).
- The requirements of the notice are cease the unauthorised use.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation

Appeal Ref: APP/J1915/A/09/2111942

14 Railway Street, Hertford, Hertfordshire, SG14 1BG

- 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 Thanh Duong against the decision of East Hertfordshire District Council.
- The application Ref 3/09/0600/FP, dated 15 April 2009, was refused by notice dated 29 June 2009.
- The development proposed is described as 'change of use of existing premises to use as a "Nail Bar" (class use sui generis)'. Planning permission for use as sui generis instead of current class A1 use as a shop'.

Summary of Decision: The appeal is dismissed

The Section 174 ground (a) appeal, and the Section 78 appeal

1. I consider the main issue in relation to both appeals is the implications of the development for the vitality and viability of Hertford Town Centre.
 2. Planning Policy Statement 6: 'Planning For Town Centres' (PPS 6) reaffirms the Government's key objective for town centres is to promote their vitality and viability, including the promotion and enhancement of existing centres by focusing development within them and encouraging a wide range of services in a good environment accessible to all. Paragraph 2.17 indicates that where primary and secondary shopping frontages are identified, local policies should make it clear which uses will be permitted in such locations. The relevant local policy in this instance is contained in the East Herts Local Plan Second Review, adopted in April 2007. Policy STC2 indicates that within the
-

- defined Primary Shopping Frontages of the larger town centres, including Hertford, proposals for change of use from shop (A1) use to non-shop uses will not be permitted.
3. The appeal property is situated on the south side of Railway Street within a pedestrianised part of Hertford Town Centre. There is no dispute that it lies within a defined Primary Shopping Frontage for the purposes of policy STC2. The Council evidently dealt with the retrospective planning application on the basis that it related only to the ground floor of the property. I have dealt with the S.78 appeal in the same way. Furthermore, as the nail bar is operated on the ground floor of the premises, I have taken this to be the scope of the enforcement notice. The main parties do not suggest otherwise. I understand the premises were previously used as a clothes shop.
 4. The main parties agree that the nail bar is a sui generis use and it does not fall within Class A1 (Shops) of the Town and Country Planning (Use Classes) Order 1987, as amended. I see no reason to come to a different conclusion. Accordingly, the use of the premises for this purpose fundamentally conflicts with the objectives of policy STC2.
 5. The appellant argues that paragraph 7.7.1 of the Local Plan makes provision for exceptions to policy. The Council infers this is a general preamble to its shopping policies relating to the whole of the larger centres, whereas paragraph 7.7.2 introduces its specific policies concerning the defined Primary and Secondary Shopping Frontages. In practice, policy STC2 resists any dilution of the retail function of Primary Frontages, whilst policy STC3 allows some flexibility for non-retail uses in Secondary Frontages.
 6. The appellant contends there are other properties within the Primary Shopping Frontage that are used for similar purposes such as 'Hearts', which apparently offers nail treatments and products. My attention has also been drawn to properties within Fore Street and Bircherley Green Centre that evidently provide similar facilities. Nevertheless, I have no information concerning the planning considerations which led to the provision of these uses, or indeed whether they have been authorised by the Council. In any event, to my mind, just because circumstances exist elsewhere that might be considered less than ideal is not a good reason for adding to such examples.
 7. The appellant points out there are other non-retail uses in the vicinity, including A3 uses. Reference is also made to empty properties within the area. However, at the time of my visit, there did not appear to be an exceptional number of units for sale or rent, or any other indicator of a lack of demand for retail units. In any event, I consider the current use of the premises as a nail bar undermines the careful balance that the Council seeks to maintain between shopping and other uses within Hertford Town Centre. The Council emphasises the retention of the Primary Shopping Frontage is vital to the sustainability of the town centre, as it is the central area of activity for public footfall supporting the economic well-being of the town. The Council also considers there are additional pressures on the 'retail arena' due to the limited size, scale and lack of internal flexibility of the numerous listed buildings in the primary shopping area.
 8. The appellant contends the nail bar makes an attractive addition to the frontages within Railway Street and it does not detract from the other retail uses. I observed the premises retain some visual interest, which derives mainly from the retention of the attractive traditional shop front. Be that as it may, I find that none of the benefits envisaged by the appellant, individually or collectively, would justify allowing the current use as a departure from development plan policy. I recognise that the vitality and viability of town centres depends on more than retailing, and stems from the range and quality of activities in such centres. However, I share the Council's concern that the current use of the property would unacceptably dilute the retail function of the Primary Shopping Frontage, contrary to its adopted town centre land use policy.

9. I conclude the current use of the premises conflicts with policy STC2 and the loss of a retail use in this location would be detrimental to the overall vitality and viability of Hertford Town Centre. The S.174 ground (a) appeal and the S.78 appeal therefore fail.

Other Considerations

10. The appellant has not lodged the appeal against the enforcement notice on ground (g). However, Planning Policy Guidance Note 18 'Enforcing Planning Control' indicates that a reasonable period for compliance may make the difference between enabling a small business to continue operating or compelling it to cease trading. I appreciate the use has operated for some time but the appellant is entitled to assume success on appeal and, should this fail, he is entitled to a reasonable period for compliance after the notice takes effect. In this respect, I consider the 1-month compliance period in the notice would give the appellant relatively little time to look for alternative premises. It might also create logistical problems for the business. There is a risk the business might need to cease trading with potentially serious consequences for those involved.
11. I consider a compliance period of 6 months would be a more proportionate and reasonable response to the breach of planning control. This would give the appellant more time to explore the options available to his business. Moreover, I could not discount the possibility that it might be possible for the parties to explore alternative ways to use the premises, including the upper floors, which might overcome the Council's objection to the current use. I shall vary the compliance period accordingly.
12. I have taken into account all the other matters raised in the representations, but I find they do not alter or outweigh the main considerations that have led to my decisions.

Formal Decisions

Appeal Ref: APP/J1915/C/09/2111965

13. I direct that the enforcement notice be varied by the deletion of '1 month' and the substitution of '6 months' as the period for compliance with the requirements of paragraph 5.
14. Subject to this variation I dismiss the appeal, uphold the notice, and refuse planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal Ref: APP/J1915/A/09/2111942

15. I dismiss the appeal.

Nigel Burrows

INSPECTOR



Appeal Decision

Site visit made on 1 December 2009

by **Ron Boyd BSc (Hons) MICE**

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

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Decision date:
15 December 2009

Appeal Ref: APP/J1915/D/09/2115167

One Ash, Frogs Hall Lane, Haultwick, Ware, Hertfordshire SG11 1JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr John Watkins against the decision of East Hertfordshire District Council.
- The application Ref 3/09/0758/FP, dated 15 May 2009, was refused by notice dated 29 July 2009.
- The development proposed is full conversion of garage into an annexe for use in association with main house.

Decision

1. I allow the appeal, and grant planning permission for full conversion of garage into an annexe for use in association with main house at One Ash, Frogs Hall Lane, Haultwick, Ware, Hertfordshire SG11 1JH in accordance with the terms of the application, Ref 3/09/0758/FP, dated 15 May 2009, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until detailed drawings of the proposed new doors and windows at a scale of not less than 1:20 have been submitted to and approved in writing by the local planning authority. The doors and windows shall be constructed as approved.
 - 3) The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as One Ash, Frogs Hall Lane, Haultwick, Ware, Hertfordshire SG11 1JH.

Main issue

2. I consider this to be whether the proposed development would amount to the construction of a separate dwellinghouse within the Rural Area beyond the Green Belt, and if so whether there are sufficient material considerations to justify its provision nevertheless.

Reasons

3. The appeal property is located within the Rural Area beyond the Green Belt and comprises a double garage alongside the bungalow 'One Ash.' It incorporates ancillary accommodation which the appellant advises is used as a residential annexe by a member of the family occupying the host property. I have no evidence that this is other than the current lawful use.
-

4. The present accommodation in the annexe comprises a bed/sitting room, a kitchen and a bathroom all on the first floor in the roof space with a utility room/office on the ground floor. The remainder of the ground floor comprises garage space. The proposed development is to incorporate the garage space into the residential accommodation to provide a separate living room on the ground floor along with a second bedroom, office, cloakroom and kitchen/diner. The roof space would then contain the main bedroom, a dressing room and a bathroom.
5. The supporting text to Local Plan Policy ENV8 in respect of self contained annexes indicates that '*Such annexes can provide accommodation for single people or small households...*'. To my mind the proposed increased accommodation, whilst relatively generous for a single person, would not, on balance, be excessive. The enlarged annexe would be capable of operating independently so far as accommodation is concerned but so would the present arrangement. The proposal would not alter the size of the building or materially affect its appearance.
6. In this light I consider the proposal to be compatible with the requirements of Policy ENV8 (II) of the East Herts Local Plan Second Review – April 2007 (the Local Plan) and that it would not amount to the construction of a separate dwellinghouse. As such it would not be in conflict with Local Plan Policy GBC3 in respect of the construction of new buildings within the Rural Area beyond the Green Belt.
7. The Council considers that the appellant has not provided sufficient information about the proposed future use. However he has confirmed that the present occupation of the annexe by a family member would continue. He is content that a condition restricting its use to that as an annexe, as envisaged in Local Plan Policy ENV8 (III), be applied. To ensure that occupation of the annexe, enlarged as proposed, remains tied to the main dwelling I am imposing such a condition. In addition, in the interests of the appearance of the proposed development, I am requiring details of new doors and windows to be approved by the Council. However as there would be no material change in appearance I see no need for a condition requiring landscaping work.
8. I have considered all other issues raised but find nothing to alter my decision. I conclude that the proposed development would not be tantamount to the construction of a separate dwellinghouse and I allow the appeal.

R.T.Boyd

Inspector



Appeal Decision

Site visit made on 1 December 2009

by **Ron Boyd** BSc (Hons) MICE

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

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Decision date:
15 December 2009

Appeal Ref: APP/J1915/D/09/2114744

44 Manston Drive, Bishop's Stortford, Hertfordshire CM23 5EN

- 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 S Carter against the decision of East Hertfordshire District Council.
- The application Ref 3/09/0876/FP, dated 8 June 2009, was refused by notice dated 7 September 2009.
- The development proposed is first floor side extension above existing ground floor extension, plus single storey front and rear extensions.

Decision

1. I dismiss the appeal.

Main issue

2. I consider this to be the effect the proposed development would have on the character and appearance of the existing dwelling and the surrounding street scene.

Reasons

3. The appeal property is situated on the corner of Manston Drive and Blackbushe, being one of a pair of asymmetrically styled semi-detached houses within the built up area of Bishop's Stortford. The area is characterized by similar dwellings many of which have been extended or altered. Both number 44 and its adjoining neighbour, number 46, have truncated hipped roofs but only number 44 has a front facing full height gable. This projects some 600mm forward of the façade of the neighbouring property at the party wall and occupies around 2/3rds of the frontage of the appeal property.
4. The proposed development includes a first floor side extension over the existing single storey garage with a front facing full height gable, wider and further forward than the existing front gable but in a similar style. The present roof ridge to the house would be extended over the side extension and finished with a truncated hip as at present. A single storey mono pitched roofed front extension would run from the party wall to the new gable.
5. I agree with the Council's Officer's Report that the side extension would be of a size, siting and scale that would be in keeping with the character and appearance of the existing dwelling and the surrounding street scene, and that it would not appear cramped within the plot. I also consider the proposed extension of the existing roof ridge and the form of the proposed front

elevation of the side extension with its second gable to be acceptable in principle. In my view the resultant emphasis of the asymmetry with the neighbouring property would be compatible with the surrounding street scene.

6. However, rather than match the existing gable, the new one, as proposed, would be wider and project further forward. In my opinion the greater width would detract from the coherence of the extended front façade. In addition the greater length of the 2 storey flank wall to Blackbushe, resulting from the further projection, would appear over prominent. I consider these aspects of the proposal to conflict with Policies ENV5 and ENV1 of the East Herts Local Plan Second Review – April 2007 (the Local Plan) that extensions should not significantly detract from the appearance of the host dwelling and should relate well to the surrounding area.
7. The proposed single storey front extension would result in number 44 projecting a total of some 2m in front of the neighbouring façade of number 46 at the party wall. To my mind it would disrupt the link between the 2 dwellings and give a disjointed appearance to the combined front façade to the detriment of the character and appearance of both properties contrary to Local Plan Policy ENV5.
8. I note the objection submitted by the occupant of number 46 expressing concerns about the effect of the proposed single storey front extension. In my opinion this element of the proposed development would impact upon the outlook from number 46 to the detriment of the living conditions of the occupants of that dwelling contrary to Local Plan Policies ENV1 (d) and ENV5.
9. I have considered all other issues raised but find nothing to alter my conclusion that for the reasons given above the proposed development would be harmful to the character and appearance of both the appeal property and its surroundings. In addition it would detract from the living conditions currently enjoyed at number 46. Accordingly I dismiss the appeal.

R.T.Boyd

Inspector