

# Agenda Item 5f

**3/10/0959/FP - Demolition of existing buildings and erection of replacement dwelling including the change of use of land to residential cartilage at The Bothy, Albury Hall Park, Albury, Ware, Herts, SG11 2JA for Mr and Mrs A Brockley**

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**Date of Receipt:** 14.06.2010

**Type:** Full – Minor

**Parish:** ALBURY

**Ward:** LITTLE HADHAM

## **RECOMMENDATION**

That planning permission be **GRANTED** subject to the following conditions:-

1. Three year time limit (1T12)
2. Sample of materials (2E12)
3. Withdrawal of Permitted Development (Part 1 Class A) (2E20)
4. Contaminated land survey and remediation (2E332)
5. Bats (2E412)
6. Levels (2E051)
7. Tree Survey (4P013)
8. Tree retention and protection (4P053)
9. Landscape design proposals (4P124)  
b), c), d), e), i), j), k), l)
10. Landscape works implementation (4P133)

## **Summary of Reasons for Decision**

The proposal has been considered with regard to the policies of the Development Plan, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the saved policies of the East Herts Local Plan Second Review April 2007), and in particular policies GBC3, HSG7, HSG8, ENV1, ENV2, ENV11, TR7. The balance of the considerations having regard to those policies and the considerations of planning approval reference 3/05/1716/FP is that permission should be granted.

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## **1.0 Background**

- 1.1 The application site is shown on the attached OS extract. The Bothy is a rendered bungalow that has been extensively modified and extended, located in the open countryside within the Rural Area Beyond the Green Belt. The existing dwelling has a simple bungalow form when viewed from the highway, but has a variety of additions and alterations when viewed from the rear. A double garage is sited adjacent and parallel to the highway forward of the dwelling.
- 1.2 The dwelling is sited within limited curtilage land with the majority of the garden space being located to the front. The application site is located within the southeastern corner of a larger plot of land, which is in the ownership of the applicant. This larger plot of land does not form part of the residential curtilage of the dwelling.
- 1.3 There are a number of protected trees within and adjacent to the site. Covered under Tree Preservation Order reference TPO223 the small area of woodland to the eastern boundary is a combination of Oak, Ash, Line, Field Maple and Hawthorn. To the southwest/ west boundary of the site, the road is lined with Willow, Holly, Labernum, Prunus and Pine; these are also covered under Order TPO223. These trees obscure the site when accessing the site via the highway from the southeast. The existing dwelling is noticeable when in close proximity, then the remaining land (in the applicant's ownership) is noticeable through the protected trees when passing the site. Due to the topography of the land the site becomes less noticeable when viewed from the northwest and north.
- 1.4 This application seeks permission for a replacement dwelling. It is proposed to demolish the existing dwelling and associated outbuildings and re-site its replacement further within the plot and thus changing the use of part of the larger plot of land within the ownership of the applicant into residential curtilage. The application proposes a dwelling with a 'cross' shaped planform, with one element of the cross having a ridge height of 7.961 metres and an unbroken ridge length of 26 metres (when viewed from the north-east and south east), and the second element having a ridge height of 7.6 metres and 23.3 metres long (broken by the roof line of the other section of the house). The applicant describes the design of this dwelling as simple and barn-like with large, steeply pitched roofs. The facades of the building combine full height glazing (including folding/ sliding doors) with colour coated metal louvers and timber panels and areas of render. The application also seeks permission for a detached triple garage with storage area in the roof space measuring 5.6 metres in height, 10.8 metres in length and 6.5 metres in width, with the garage proposed to be sited adjacent but perpendicular to the highway, forward of the siting of the replacement dwelling.

### **3/10/0959/FP**

- 1.5 The nearest neighbouring dwellings are the grade II listed Hole Farm located approx. 85 metres to the west, and the grade II listed The White Cottage at 190 metres to the east.

## **2.0 Site History**

- 2.1 The existing dwelling has benefited from various planning approvals that have resulted in a single storey side extension (Ref: 3/86/1107/FP), an attached covered swimming pool (Ref: 3/86/1276/FP), a rear dormer window (Ref: 3/96/1434/FP), a rear conservatory (Ref: 3/99/1596/FP), and a detached double garage (Ref: 3/91/1663/FP). The existing dwelling is located within an irregular shaped curtilage located in the south eastern corner of a larger plot of land in the ownership of the applicant. Prior to 1995 the remaining land within the ownership of the applicant was agricultural land and part copse, but gained consent for its conversion to paddock and mature conservation area (Ref: 3/95/0538/FP).
- 2.2 Following a refused application for extensions to and the enlargement of The Bothy (Ref: 3/05/1107/FP), a revised application for raising of roof, new front/rear dormers, single storey front extension was refused due to the development being considered inappropriate development in the rural area, and the cumulative effect of the proposed extensions, together with the extensions previously added to the property, would result in a building of excessive size, out of keeping with the character and appearance of the original dwelling, to the detriment of the rural character of the area (Ref: 3/05/1716/FP.). This refusal was appealed by the applicant and was subsequently allowed by the Planning Inspectorate.

## **3.0 Consultation Responses**

- 3.1 The Council's Landscape Officer in commenting on the significant number of trees on or adjacent to the site noted that although a topographical survey has been submitted there has been no tree survey carried out as such. The most important trees to protect on this site are the subject of TPO 223 (the area of trees along the eastern boundary and those individual trees along the access road opposite the existing house). It is Officers opinion that it would be important for the applicant to demonstrate full compliance with BS5837: 2005 – Trees in relation to construction – Recommendations in respect of pre development tree work and protection of trees to be retained etc before the commencement of the construction phase of the development. The Officer has raised no objection to the removal of those trees that fall within the footprint of the proposed dwelling.

- 3.2 The Officer also agreed with the Visual Assessment contained in the Design and Access Statement in that the proposed dwelling will not be visually prominent from the surrounding landscape – due to the local topography and existing vegetation/ woodland which surrounds much of the site. They consider however that some new tree planting should be secured in mitigation, when taking into account the significant increase in footprint and height of the proposed dwelling in comparison with existing. As the wider setting for the development site ‘the blue line’ falls within ownership of the applicant, then it seems to be reasonable if some of the proposed tree / hedge planting is outside the ‘red line’. The indicative landscape proposals make a reasonable starting point in this respect.
- 3.3 Hertfordshire Biological Records Centre recommends refusal due to the lack of a bat survey.
- 3.4 The Council’s Environmental Health Officer advises that any permission which the Planning Authority may give shall include conditions relating to noise issues, air quality issues and contaminated land.
- 3.5 County Highways does not wish to restrict the grant of permission subject to a condition relating to the preservation of an existing public right of way. They considered that the site is remote from the public highway with vehicle access to the site gained over the route of a public footpath. Traffic generation is unlikely to change and ample space for parking and turning clear of the footpath is available.

#### **4.0 Parish Council Representations**

- 4.1 Albury Parish Council were consulted on the application although no representations have been received.

#### **5.0 Other Representations**

- 5.1 The applications have been advertised by way of site notice and neighbour notification.
- 5.2 Eight letters of support have been received from occupants of dwellings within the Parish. The letters have a common theme supporting the replacement of the existing bungalow with a dwelling that is considered to be more in-keeping with the landscape character of the area.

5.3 One letter of concern has been received from the occupants of Hole Farm who questioned whether the type of building proposed will be in-keeping with the area. Concern was also raised with regard to the preservation of the trees surrounding the site and the impact of the heavy construction traffic upon the road.

## **6.0 Policy**

6.1 The relevant 'saved' Local Plan policies in this application include the following:-

HSG7 Replacement Dwellings and Infill Housing Development

HSG8 Replacement Dwellings in the Green Belt and Rural Area Beyond the Green Belt

GBC3 Appropriate Development in the Rural Area Beyond the Green Belt

ENV1 Design and Environmental Quality

## **7.0 Considerations**

7.1 The determining issues in respect of this application are:

- the principle of a replacement dwelling in accordance with policies GBC3 and HSG8 of the Local Plan;
- the acceptability of the proposed Triple Garage;
- the impact of the proposal on neighbour amenity;
- landscape considerations;
- access and parking;
- the impact of the proposal on bats.

### Principle of replacement dwelling

7.2 Policy GBC3 of the Local Plan sets out the types of development which are acceptable within the Rural Area, and this includes replacement dwellings in accordance with Policy HSG8. Policy HSG8 states that proposals for replacement dwellings in the rural area, in circumstances where the original dwelling is of poor appearance or construction not capable of retention, and not contributing to the character or appearance of the surroundings of the area, will be considered against the criteria in policy HSG7 and the following criteria:

- the dwelling to be replaced has a lawful residential use;
- the volume of the new dwelling is not materially larger than the dwelling to be replaced, plus any unexpended permitted development rights excluding separate buildings; and

- the new dwelling is no more visually intrusive than the dwelling to be replaced.

7.3 The initial consideration in this case is therefore whether the existing building is of poor appearance or construction not capable of retention, and not contributing to the character or appearance of the surroundings of the area. In determining the appeal against the refused application for extensions to the property (Ref: 3/05/1716/FP) the Inspector stated “the current appearance of the main dwelling is bland and of limited inherent merit, with no noticeable features worthy of retention in its rural setting”, these comments were based upon the assessment of the two following issues: the effect of the proposed extensions and alterations on the character and appearance of the dwelling; and the second being their effect on the character and appearance of the locality, with regard to the visual quality of the landscape. Although the Inspector’s comments were based upon the retention of the existing dwelling and alterations and enlargements to the dwelling through proposed extensions, and not the replacement of the existing dwelling, it is considered that these comments are a material consideration in the determination of this application. Having regard therefore to those comments, it is considered that in this case the dwelling is of a poor appearance not contributing to the character or appearance of the surrounding Rural Area, and the principle of a replacement dwelling in this case is therefore acceptable.

7.4 Since it is accepted that the existing dwelling has a lawful residential use, it is necessary to consider whether the proposal accords with the other criteria set out in policy HSG8. Turning firstly to the issue of the volume of the proposed dwelling, it is considered that a comparison should be made between the volume of the proposed replacement dwelling and the dwelling as could be enlarged by the allowed appeal. Whilst this permission has not been implemented and the permission has now lapsed, there has not been significant changes in circumstances or policy since the appeal decision to warrant a different decision now being made. It can therefore be concluded that if permission was sought for extensions to the property of a size that were previously approved, then permission is likely to be forthcoming. It is for these reasons that it is considered that the volume comparison should be made between the proposed replacement dwelling and the size of the dwelling as allowed at appeal.

7.5 Officers have calculated that, the proposed replacement dwelling would result in a 30% increase in volume over that of the appeal scheme and such an increase would result in a dwelling that would be materially larger than the resultant dwelling approved at appeal. This material increase in volume is reflected in the increase in the massing of the building. Whereas (notwithstanding the size, scale and massing of the swimming pool, plant

room, conservatory, and utility room at single storey) at two storeys the main massing of the appeal scheme results in a dwelling of 7.4 metres in a height and a width of 18.5 metres, the proposed replacement dwelling proposes a 'cross' plan form with two ridge lengths of 26 metres and 23.3 metres with heights of 7.96 metres and 7.55 metres in height respectively. This proposal therefore offers an increase in volume and massing to that approved, and is contrary to part (b) policy HSG8 of the Local Plan.

- 7.6 Although the proposal offers a 30% increase in volume over the appeal scheme, consideration is also given to part (c) of policy HSG8 as to whether the re-siting of the replacement dwelling further within the site together with an increase volume and massing within this location would be more visually intrusive than the dwelling to be replaced.
- 7.7 The Planning Inspector in determining the appeal against the refused 2005 application commented that a building of greater bulk would have a more fitting presence on this large and well landscaped plot, and the applicant (in the Design and Access Statement) considers that central to the design of this current scheme is the aim of creating a better relationship between the house, site and locality. The Landscape Officer supports the view of the applicant by considering that the proposed dwelling will not be visually prominent from the surrounding landscape – due to the local topography and existing vegetation/ woodland which surrounds much of the site.
- 7.8 Consideration is therefore given to the level of harm that will be caused by the proposed replacement dwelling. It is Officers opinion that although the proposed scheme will constitute a 30% increase in volume and the mass of the dwelling (due to the 'cross' formation and ridge lengths) and will be greater than that allowed by the appeal scheme, taking into account the comment and observations raised by the Landscape Officer, the proposal is unlikely to be visually intrusive within the landscape.
- 7.9 In conclusion therefore, whilst the proposed replacement dwelling would be materially larger than the dwelling to be replaced (including any unexpended permitted development rights) and would result in an increase in the scale and massing of the dwelling, due to the topography of the land, its siting and screening by vegetation, the resultant dwelling would not result in any significant impact in terms of visual intrusiveness.
- 7.10 With regards to the design of the proposal, it is Officers opinion that the use of the high pitched roofs and the simple form of the dwelling respects the agricultural setting. With regards to the contemporary design of the fenestration it is considered as a positive contribution to the design offering a positive contrast with the traditional materials and design of the roof. Whilst offering a unique planform to the dwelling within the local rural setting it is not

considered that the contemporary “cross” design of this dwelling to be detrimental to local rural distinctiveness. For this reason it is recommended that this proposal is in-line with the design considerations of policy ENV1 of the Local Plan.

#### Triple Garage

- 7.11 The application also proposes the erection of a triple garage to be located adjacent to the entrance to the site and the highway. The garage is to be of a simple form measuring 5.6 metres in height, 10.8 metres in length and 6.5 metres in width. The size and scale of the flank elevation will not differ greatly from the existing garage, but the increase in length will result in a garage of an increased size and scale.
- 7.12 Whilst the garage is of a larger scale to the existing garage, its siting and orientation to the highway will not significantly differ to that of the existing garage. Taking this into account and that the increase in length will be obscured from public view by the existing mature vegetation, it is Officers opinion that the proposed garage building will not significantly alter the distinctive rural character of its surroundings and would thereby be in-line with policy ENV1 of the Local Plan.

#### Neighbour Amenity

- 7.13 Since The Bothy sits independently within its rural setting, I am of the opinion that this proposal will not impact upon the enjoyment the neighbouring Hole Farm (sited approximately 85 metres to the west of the site) or of White Cottage, sited further away. For this reason I recommend that this proposal is in-line with the amenity considerations of policy ENV1 of the Local Plan.

#### Landscape Considerations

- 7.14 Notwithstanding the comments of the Landscape Officer with regard to the visual impact of the proposed dwelling, consideration is given to the impact of the proposed dwelling upon existing landscape features, specifically the trees protected by the Tree Preservation Order.
- 7.15 The scheme proposes the felling of trees to clear the site for the new dwelling. Since a tree survey was not included as part of the application it has been difficult to assess the loss of these trees and the possible impact upon the protected trees. Notwithstanding the above the Landscape Officer considers that the submission of a tree survey and scheme of protection as a condition of approval will be sufficient to ensure their protection.



**Access and Parking**

- 7.16 With regards to parking standards (Policy TR7 and Appendix II) the maximum parking standards required for a dwelling of this size is 3 spaces. This proposal offers considerably more than the maximum required and is acceptable. County Highways raised no objections to the proposal subject to a condition relating to the preservation of an existing public right of way. They considered that the site is remote from the public highway with vehicle access to the site gained over the route of a public footpath. Traffic generation is unlikely to change and ample space for parking and turning clear of the footpath is available.

**Natural Habitat**

- 7.17 Hertfordshire Biological Records Centre (HBRC) have records of roosting bats within 425 metres of The Bothy. They note that the property is set in rural location with extension areas of woodland, mature trees, grasslands, hedges, trees, and ponds. All are favoured breeding habitats for bats and therefore it is possible that bats may be roosting in the roof space of the house and that they could be harmed or disturbed by the proposed development.
- 7.18 Although HBRC recommend refusal due to the lack of information to enable a judgment on the presence of bats and the possible harm (if any) caused by the proposal, with regard to policy ENV16 of the Local Plan, Officers consider that a planning condition can be imposed to require a bat survey to be undertaken and any necessary mitigation measures put in place.

**8.0 Conclusion**

- 8.1 In summary, it is considered that the proposed development would be acceptable in this instance and that limited harm to the character and appearance of the Rural Area would result from the development.
- 8.2 It is therefore considered that there are circumstances in this case to allow permission to be granted contrary to Policy HSG8 of the Local Plan, and it is recommended that permission be granted subject to the conditions set out above.

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