Chairman and Members of the Development Management Committee.

Your contact: Peter Mannings
Extn: 2174
Date: 21 July 2015

cc. All other recipients of the Development Management Committee agenda.

Dear Councillor,

DEVELOPMENT MANAGEMENT COMMITTEE – 22 JULY 2015.

Please find attached the following reports which were marked “to follow” on the agenda for the above meeting:

6. Items for Reporting and Noting (Pages 3 – 44).

(A) Appeals against refusal of Planning Permission/ non-determination.

(B) Planning Appeals Lodged.

(D) Planning Statistics.

Please bring these papers with you to the meeting tomorrow evening.

Yours faithfully

Peter Mannings
Democratic Services Officer
East Herts Council
peter.mannings@eastherts.gov.uk

MEETING	**:**	DEVELOPMENT MANAGEMENT COMMITTEE
VENUE	**:**	COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE	**:**	WEDNESDAY 22 JULY 2015
TIME	**:**	7.00 PM

EAST HERTFORDSHIRE DISTRICT COUNCIL
DEVELOPMENT CONTROL COMMITTEE - 22 JULY 2015
ITEMS FOR REPORT AND NOTING

(A) APPEALS
Director of Neighbourhood Services (Development Management)

Application Number	3/14/0680/CL
Decison	Refusal
Level of Decision	Delegated
Address	Danes Lodge, 36, Little Berkhamsted Lane, Little Berkhamsted, Hertford, Herts, SG13 8LU
Appellant	Mr S Stevens
Proposal	Proposed single storey detached garage
Appeal Decision	Allowed

Application Number	3/14/1548/FP
Decison	Refusal
Level of Decision	Delegated
Address	New Barns, New Barns Lane, Much Hadham, SG10 6HH
Appellant	Kevin Gregory
Proposal	Change of use of existing buildings into stables, carriage store and associated facilities.
Appeal Decision	Dismissed

Application Number	3/14/2002/FP
Decison	Refusal
Level of Decision	Delegated
Address	The Paddocks 6 Waterford Common Waterford Hertford Hertfordshire SG14 2QD
Appellant	Mr & Mrs Parkhouse
Proposal	Ground floor and first floor extensions in association with raising of roof
Appeal Decision	Allowed with Conditions

Application Number	3/14/2014/FP
Decison	Refusal
Level of Decision	Delegated
Address	Cherrymead Frogs Hall Lane Haultwick Ware Hertfordshire SG11 1JH
Appellant	Mr & Mrs J Watts
Proposal	Creation of first floor accommodation involving alterations to and raising of the roof .
Appeal Decision	Allowed with Conditions

Application Number	3/14/2109/FP
Decison	Refusal
Level of Decision	Delegated
Address	12 Trinity Road Ware Hertfordshire SG12 7DB
Appellant	Mr & Mrs Graham & Helen Turner
Proposal	Proposed single storey side and rear extension
Appeal Decision	Dismissed

Application Number	3/14/2134/AD
Decison	Refusal
Level of Decision	Delegated
Address	The Drill Hall Market Square Bishops Stortford Hertfordshire CM23 3UU
Appellant	Unico Restaurant
Proposal	Internally illuminated projecting sign. (Retrospective)
Appeal Decision	Dismissed

Application Number	3/14/2229/FP
Decison	Refusal
Level of Decision	Delegated
Address	Mulberry House Green End Dane End Ware Hertfordshire SG12 0NX
Appellant	Baz Chudasama
Proposal	Raising of roof to form first floor accommodation and two storey and single storey side extensions .
Appeal Decision	Allowed with Conditions

Application Number	3/15/0001/FP
Decison	Refusal
Level of Decision	Delegated
Address	45 Heath Row Bishops Stortford Hertfordshire CM23 5DH
Appellant	Martin Cornwall
Proposal	Erection of a shed to front - Retrospective
Appeal Decision	Dismissed

Application Number	3/15/0090/FP
Decison	Refusal
Level of Decision	Delegated
Address	West Cottage Hadham Hall Little Hadham Ware Hertfordshire SG11 2EB
Appellant	Anthony Mason
Proposal	Demolition of garage, single and two storey side extension incorporating garage and juliet balcony
Appeal Decision	Dismissed

Application Number	3/15/0171/PR
Decison	Prior Approval Required and Refused
Level of Decision	Delegated
Address	Rush Green Farm Great Munden Ware Hertfordshire SG11 1JP
Appellant	Mr C Maxen
Proposal	"Swallows" Change use of existing farm building into a 3 bedroom property
Appeal Decision	Dismissed

Background Papers
Correspondence at Essential Reference Paper 'A'

Contact Officers
Kevin Steptoe, Head of Planning and Building Control – Extn: 1407
Alison Young, Development Manager – Extn: 1553

The Planning Inspectorate

Appeal Decision

Site visit made on 9 June 2015

by P G Horridge BSc(Hons) DipTP FRICS MRTPI

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

Decision date: 22 June 2015

Appeal Ref: APP/J1915/X/14/2223941
Danes Lodge, 36 Little Berkhamsted Lane, Little Berkhamsted SG13 8LU

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the "Act") against a refusal to grant a lawful development certificate (LDC) by East Hertfordshire District Council.
- The appeal is made by S Stevens.
- The application Ref 3/14/0680/CL was refused by notice dated 6 June 2014.
- The application was made under section 192(1)(b) of the Act.
- The development for which a lawful development certificate is sought is a single storey detached garage.

Summary of decision: The appeal is allowed and a lawful development certificate is issued in the terms set out below in the formal decision.

Preliminary matters

1. For the avoidance of doubt, the planning merits of the operations are not relevant, and are not therefore an issue to be considered in the context of an appeal under section 195 of the Act, which relates to an application for a lawful development certificate. The decision rests on the facts of the case, and on relevant planning law and judicial authority.

2. The application sought confirmation that the erection of the garage would be 'permitted development' under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (the "Order"). This Order was superseded on 15 April 2015 by the Town and Country Planning (General Permitted Development) Order 2015. Since the provisions of section 192 of the Act are that the relevant date for assessing the lawfulness of works is the date of the application, then this change is of no material consequence to the determination of the application. In any event, the relevant provisions under Part 1 of Schedule 2 to the Order remain unchanged, albeit renumbered.

3. The building had been partly constructed at the time of the site visit. However, as already noted, the relevant date for assessing the lawfulness of proposed works is the date of the application. In respect of the works that have been

undertaken, it is noted that an earlier application for an LDC for a building with a lower pitched roof was approved in February 2014.

Main Issue

4. This is whether the Council's decision to refuse to grant an LDC was well-founded.

Reasons

5. The parties agree that in most respects the proposed garage satisfies the limitations set out in Class E of Part 1 of Schedule 2 to the Order that would qualify it as 'permitted development' for which planning permission is granted by Section 60 of the Act and Article 3 of the Order. The nub of the issue relates to the measurement of the height of the proposed building.

6. Under Class E, the maximum height of a building with a dual-pitched roof is 4 metres. Article 1(3) of the Order states that 'height' shall be construed as a reference to its height when measured from ground level, which means the level of the surface of the ground immediately adjacent to the building in question. Where the level of the surface of the ground is not uniform, ground level is to be taken as the level of the highest part of the surface of the ground adjacent to the building.

7. The reason for refusal uses the term 'natural ground level' although this is not an expression used in the Order. However, the Department for Communities and Local Government 'Permitted development for householders Technical Guidance' (April 2014) notes that ground level *"will be the level of the natural ground and would not include any addition laid on top of the natural ground such as a patio".*

8. In this case, the ground slopes down from east to west and appears to have been cut away to allow the construction of the garage. The 4m height of the garage is measured by the applicant from a section of lawn immediately adjoining the building to the south. This lawn itself appeared to have been partly contoured to produce a more level surface, contained by a retaining wall on its west side where it abuts the patio to the house. The council considers that the lawn has been artificially raised and that the 'natural' ground level is that of the ground floor level of the house and garage. However, the lawn is on the same level as the field which adjoins it immediately to the east, which suggests that the original ground level sloped down from the east towards the house and that the contouring had not raised the level where it abuts the south-east corner of the proposed garage. As a result the building would be no greater than 4m in height when measured from the highest part of the surface of the ground immediately adjacent to the building. It therefore satisfies all of the limitations contained in Class E of Part 1 of Schedule 2 to the Order.

Conclusions

9. For the reasons given above and on the evidence now available, the Council's refusal to grant a lawful development certificate in respect of a single storey detached garage was not well-founded and the appeal should succeed. I will exercise accordingly the powers transferred to me under section 195(2) of the Act.

Formal decision

10. The appeal is allowed and attached to this decision is a lawful development certificate describing the extent of the proposed operations which are considered to be lawful.

Peter Horridge

INSPECTOR

IT IS HEREBY CERTIFIED that on 14 April 2014 the operations described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto, would have been lawful within the meaning of section 192 of the Town and

Lawful Development Certificate

APPEAL REFERENCE APP//J1915/X/14/2223941
TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by section 10 of the Planning and Compensation Act 1991)

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010: ARTICLE 35

Country Planning Act 1990 as amended, for the following reason:

The proposed garage falls within the scope of Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and planning permission is granted by Section 60 of the Town and Country Planning Act 1990 and Article 3 of the Town and Country Planning (General Permitted Development) Order 1995.

Peter Horridge

INSPECTOR

DATE: 22.06.2015

First Schedule

The erection of a single storey detached garage as shown on drawing 11066-P002 dated April 2014.

Second Schedule

Land at Danes Lodge, 36 Little Berkhamsted Lane, Little Berkhamsted SG13 8LU.

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 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 operations described in the First Schedule and to the land specified in the Second Schedule. Any 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.

Appeal Decision

Site visit made on 12 May 2015

by Elaine Benson BA (Hons) DipTP MRTPI

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

Decision date: 25 June 2015

Appeal Ref: APP/J1915/W/14/3001206
New Barns Lane, Much Hadham SG10 6HH

- 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 Kevin Gregory against the decision of East Herts Council.
- The application Ref 3/14/1548/FP, dated 22 August 2014, was refused by notice dated 16 October 2014.
- The development proposed is adaptation and change of use of the redundant buildings into an equestrian facility.

Preliminary Matters

1. The description of the appeal proposal given in the planning application and appeal form is that set out above. The appellant's Grounds of Appeal also describes the development in the same way. The Council's decision describes the proposal as 'change of use of existing buildings into stables, carriage store and associated facilities'. There is no indication that this change of description was agreed. Accordingly, the appeal has been determined on the basis of the development applied for.

2. For clarification, some of the evidence with the appeal and the Council's decision notice give the site's address as New Barns, New Barns Lane, Much Hadham SG10 6HH. However, the planning application and appeal forms and the submitted drawings give the site address that I have repeated above.

Decision

3. The appeal is dismissed.

Main Issues

4. Whether the proposed alterations are acceptable within the rural area and the effect of the proposed development on residential amenities and highway safety.

Reasons

5. The appeal site contains a group of 3 disused agricultural buildings which it is proposed to bring into use as an equestrian facility. There is nearby grazing land and access to bridleways. An equestrian facility use could encompass enterprises operated in a number of different ways. It is noted that a previous application for a livery use was withdrawn following concerns raised by the Council.

6. The end user described in the proposal is a horse and carriage business which would relocate to the appeal site. It uses large breed horses and employs 3 people full-time. It is stated that 2 horse boxes the equivalent size of a small HGV vehicle would be used and there would be 4 daily movements. However, as indicated above, the appeal does not seek planning permission for this specific use. No conditions or other mechanisms have been proposed by either of the main parties to restrict the use to a horse and carriage business.

7. The Council raises no objection in principle to a commercial use of the buildings which would support the rural economy. There are no reasons to disagree and I conclude that the principle of the proposed development would comply with saved Policy GBC3 of the East Herts Local Plan Second Review April 2007 (LP) which allows for the adaptation and reuse of rural buildings in accordance with its saved Policy GBC9. The development would be in accordance with the similar objectives of the National Planning Policy Framework (the Framework) to encourage economic growth in rural areas and to create jobs and prosperity through the conversion of existing buildings.

Extent of the Proposed Alterations

8. Policy GBC9 sets out a range of criteria which must be met in order to permit the adaptation and reuse of rural buildings. I am informed that a Guidance Note *Farm Buildings* further explains the Council's approach. However, I have not been provided with a copy of this document and cannot take it into account in this decision. Although pre-dating the publication of the Framework, the Council's approach could be considered consistent with its Paragraph 157 which indicates among other things that local plans should identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation. However, the detailed criteria of Policy GBC9 go beyond the requirements of the Framework and the Government's general approach to rural development, as demonstrated by recent changes to permitted development rights for the reuse of farm buildings. These are more recent than the LP and are material considerations of considerable weight which also limit the weight that can be given to the criteria in Policy GBC9.

9. The appeal buildings are typical of those found in rural areas and I agree with the Council that they are of a form, bulk and general design that are in keeping with their surroundings and therefore comply with criterion a) of Policy GBC9. Criterion b) requires that the building is permanent and is soundly constructed, not requiring complete or substantial reconstruction before adaptation to a new use; and criterion c) requires that the proposed use is sympathetic to the rural character and appearance of the building, not requiring extensive alterations or anything other than minor extensions to accommodate it. It is common ground that a number of other policy criteria are not directly relevant to this appeal.

10. Building 1 is an open, portal framed agricultural shed which would be partially enclosed to form covered carriage, horse boxes and hay stores. Building 2 would be fully enclosed with new walls. New internal subdivisions would form 7 stables and a horse shower and drying area. Building 3 would have 3 new walls and would be used as a harness and tack room. The external materials would comprise block work with coloured, profiled metal sheeting above and on the roofs.

11. I agree with the Council that the buildings are permanent and soundly constructed although they are in poor condition. However, it considers that the proposed works would amount to substantial reconstruction because they involve the erection of a number of internal and external walls and little of the existing buildings would be retained; namely the steel frames and parts of the walls of buildings 2 and 3.

12. The development plan does not provide a definition of substantial reconstruction. Therefore, whilst I acknowledge that this guidance is not directly relevant to the appeal proposal as it is for a different type of development, it is helpful to consider the Government's advice within the National Planning Policy Guidance (the Guidance) in respect of permitted changes of use of agricultural buildings to residential[1]. The Guidance indicates that the permitted development right is not intended to include the construction of new structural elements, but allows for new windows, doors, roofs or exterior walls etc, noting that the building should be structurally strong enough to take the loading that comes with the external works. The proposed works to the agricultural buildings would not amount to new structural works or extensive alterations. It is in my view reasonable to consider the proposed works to be in the spirit of those which the Government considers is acceptable when converting an agricultural building.

13. The alterations to the barns would improve their appearance and bring a neglected site back into use. This would benefit the rural environment. The introduction of passing places on New Barns Lane which I address further below would harm the rural character of the lane to a limited extent due to the amount of excavation required and the introduction of hard surfacing and gabion walls. However, this should be balanced with the potential improvements to the safety of those using the lane.

14. Having regard to all of the foregoing matters I conclude that the proposed works would not amount to substantial reconstruction and would comply with criteria b) and c) of Policy GBC9 and consequently Policy GBC3. There would be no conflict with saved LP policy ENV1 which in summary and of relevance to this appeal seeks high standards of design and environmental quality which reflect local distinctiveness. These policy objectives are consistent with the Framework's encouragement of high quality design which respects its surroundings.

Neighbours' Amenities

15. I am not convinced that there would be an adverse effect on neighbouring residential amenities, including from external lighting, general disturbance and noise as a result of the proposed works to the buildings or the indicative use as a horse and carriage business when conducted along the lines described. I am satisfied that any adverse impacts of this use would be similar to those arising from an agricultural use of the appeal site.

16. However, the absence of any detailed information about other, undefined, equestrian uses means that I am unable to determine the effects on neighbours' amenities of an equestrian facility.

[1] Paragraph 105 Reference ID: 13-105-20150305

Highway safety

17. New Barns Lane is the only access to the appeal site and it is a narrow, fairly straight, rural lane. It is around 1 km long and lined with hedgerows and trees. There are no formal passing places. Accesses to residential properties, a large electricity substation and a field are used informally for vehicles to pass each other. These characteristics lead to conflict between vehicles travelling in opposite directions along the lane. This situation would be exacerbated by the 4 additional movements generated by the horse and carriage use, particularly due to the large vehicles used, and other associated traffic, such as delivery vehicles, veterinary staff and potential customers of the carriage business.

18. Due to its characteristics the Highway Authority (HA) is concerned about any intensified use of New Barns Lane over and above that resulting from the undisputed lawful agricultural use. There is no evidence of any previous livestock uses at the appeal site and it appears to have been used for the storage of crops and associated machinery. Nonetheless, the buildings could be put to a number of different agricultural uses and the buildings adapted accordingly. There are no reasons to doubt the appellant's stated intention to bring the site into productive use.

19. The technical evidence provided by the appellant is convincing that many agricultural uses on a site of this size would generate at least similar levels of traffic movement to the horse and carriage use, and could include the use of HGVs. However, other equestrian facilities might operate on a more intensive basis, potentially attracting more staff and visitors on a daily basis and generating greater volumes of traffic. No evidence has been provided which addresses this scenario.

20. There is substandard visibility at the junction of New Barns Lane and the High Street. However, it is little different to the accesses to many rural lanes. The lawful agricultural use of the appeal site and the vehicle movements associated with this use should also be considered. If approached with caution, there is sufficient visibility at the access to allow for safe access to and egress from the lane. Accordingly this is not in my view a determinative issue in this appeal.

21. There are public footpaths and a bridleway off the lane which I am informed are often used by walkers and horse riders. I was passed by cars when walking along the lane during my site visit. It was clear that larger vehicles would leave little space for walkers who would have to climb the banks at the side of the road to remain safe. However this situation could also occur if an agricultural use were to be resumed.

22. To address highway safety concerns, the appellant proposes to construct 2 passing places on the lane. These details were not included in the planning application but were provided in support of the appeal. There is no certainty that the identified locations for the passing places or their method of construction would be acceptable to the HA. Furthermore, there is a dispute about the ownership of part of one of the verges which it is proposed to excavate. Nonetheless, when the highway impacts of an agricultural use of the appeal site are taken into account, I am not convinced that passing places are essential to make the proposal acceptable. Therefore to require passing places by condition would not meet the relevant tests. No other mechanism to secure them, such as a planning obligation, has been provided. I can therefore give

this matter only limited weight. This appeal decision would not of course preclude the construction of passing places outside the appeal process.

23. The evidence is convincing that the indicative horse and carriage use described in the particulars would not harm highway and pedestrian safety. However, in the absence of any evidence to the contrary, I conclude that the traffic generated by an equestrian facility at the appeal site has the potential to have a severe impact on highway safety. This would conflict with saved Policy TR20 of the LP which in summary seeks to prevent significant adverse effects on the local rural environment arising from development where there is a poor road in terms of its width and alignment and there would be increased traffic. The proposal also conflicts with the requirement of the Framework to ensure that safe and suitable accesses can be achieved.

Other Matters

24. There are concerns that the proposed use could lead to an application for a rural workers' dwelling. However no dwelling is proposed as part of this proposal and any future development would be assessed on its own merits against policies pertaining at that time. Control of any external lighting could have been addressed by condition had the appeal been allowed.

Overall Conclusion

25. I have found that the proposed works to the agricultural buildings would be acceptable and that there would be no harm to the character or appearance of the rural environment as a result of the proposed development.

26. However, an equestrian facility would be likely to generate a significant number of large horse-related vehicle movements along New Barns Lane over and above those generated by an agricultural use of the existing buildings. There is little evidence to the contrary. Having particular regard to the characteristics of New Barns Lane any significant intensification of its use would harm highway, horse rider and pedestrian safety. Furthermore, in the absence of any opposing evidence, I conclude that the use of the site as an equestrian facility is likely to harm the living conditions of neighbouring residential occupiers. These concerns are not outweighed by the growth of the local rural economy that would result from the proposal.

27. For these reasons the appeal proposal cannot be considered to amount to sustainable development. Accordingly the appeal should be dismissed.

Elaine Benson

INSPECTOR

Appeal Decision

Site visit made on 22 May 2015

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 16 June 2015

Appeal Ref: APP/J1915/D/15/3006763
6 Waterford Common, Waterford, Hertford SG14 2QD

- 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 & Mrs Parkhouse against the decision of East Herts Council.
- The application, Ref. 3/14/2002/FP, dated 10 November 2014, was refused by notice dated 24 December 2014.
- The development proposed is ground floor and first floor extensions.

Decision

1. The appeal is allowed and planning permission is granted for ground floor and first floor extensions at 6 Waterford Common, Waterford, Hertford in accordance with the terms of the application, Ref. 3/14/2002/FP, dated 10 November 2014, 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) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. NH/622/01; NH/622/02; NH/622/03; NH/622/04; Location Plan at scale 1:1250; Block Plan at scale 1:500;

    3) The materials to be used in the construction of the external surfaces of the extensions shall match those used in the existing building.

Main Issues

2. The main issues are (i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2012 ('the Framework') and any relevant development plan policies; (ii) the effect of the proposed extensions on the openness of the Green Belt, and (iii) whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, and (iv) if so, whether this would amount to the 'very special circumstances' required to justify the proposal.

Reasons

3. Under Policies GBC1 and ENV5 of the East Herts Local Plan Second Review April 2007, limited extensions or alterations to existing dwellings in the Green Belt are acceptable in principle provided that cumulatively with previous additions they do not result in in disproportionate additions over and above the size of the original dwelling, and do not intrude into the openness or rural qualities of the surrounding area. If these provisos were met the extensions would not be 'inappropriate development' within the Green Belt. This closely reflects Government policy in the Framework.

4. It is argued for the appellants that the Council's assessment of 'disproportionate additions' is solely quantitative and that it is appropriate to also have regard to a qualitative judgement. However Policy ENV5 uses the terms 'scale' and 'size'; Policy GBC1 refers to 'limited' extensions or alterations, and the third bullet point of paragraph 89 of the Framework also refers to 'size'. Thus insofar as issue (i) is specifically concerned, I can find no support in local or national policy to support the relevance of a qualitative argument.

5. The Council's delegated report calculates that the proposed extensions would increase the floorspace of the original dwelling by 133.6%; its footprint by 60.9%, and that these would be accompanied by relatively large increases in eaves and ridge heights and volume. The appellants claim that the Council has made an error and that the actual increase in floorspace would be about 46sqm less than the figure alleged and that this would reduce the percentage increase.

6. However even if I accept this point, a floorspace increase that approaches twice that of the original dwelling combined with the consequential increase in volume and ridge and eaves heights, would still be of a sufficiently large scale as to warrant a description of 'disproportionate'. I accept that because there is no definition of a maximum figure in terms of an increase in size (however measured) in local and national policies this has to be a matter of planning judgement. Nonetheless as the decision-maker in this case it is a judgement that I consider to be entirely reasonable.

7. Accordingly on the first issue I find that the proposal would be inappropriate development within the Green Belt, which paragraph 87 of the Framework states is harmful by definition and should not be approved except in 'very special circumstances'.

8. Turning to issue (ii), the effect on openness, I take the view that with the proposed increase in the size of the dwelling, including in particular the greater volume at first floor and the larger roof with its higher eaves and ridge, there would inevitably be a loss of openness.

9. On the other hand the harm arising would be substantially mitigated by an absence of visual intrusion as a result of the appeal scheme. From the public views in the road the existing building is set down; the existing large gap to No. 8 would be only slightly reduced; the distance to No. 5 on the opposite side would remain unaltered, and the hipped roofs on both sides would lessen any perception of increased size and bulk. On the south east side when seen from the road the separate hips to the main roof and the utility room would have the appearance of a catslide roof on this flank of the building. Of particular importance is that the ridge would be no higher than the ridges of the adjoining

properties. Taking these factors together, I consider that the harm caused by the loss of openness would for the most part be offset.

10. In respect of issue (iii), the appellants have raised two main other considerations regarded as weighing in favour of the proposal: firstly the qualitative assessment to which I have referred in paragraph 4 above, and secondly the 'fall back' position in terms of permitted development rights.

11. On the first point I consider that the existing building has no architectural merit, with the front elevation particularly poor. This absence of design quality combined with its small scale on a large plot renders the dwelling out of keeping with its larger extended neighbours. In contrast, the proposed extensions would result in the property becoming a balanced architectural composition that would enhance the street scene of Waterford Common. In respect of the second requirement of Policies ENV5 and GBC1 when considered together, the extended dwelling would not, despite its larger size, intrude upon the rural qualities of the area.

12. On the second point it is argued that the permitted development rights for detached houses introduced by the Government in March 2013 would allow the addition of more floorspace and volume of the original dwelling than is proposed in the appeal scheme. Some caution must be exercised on this point because the householder application appeal procedure does not allow the Council to respond to this claim and the permitted development rights are subject to somewhat complicated constraints and a prior approval procedure.

13. Nonetheless because the house is located in a large plot with a substantial separation from No. 8, I am satisfied that there is a potential for significant extensions under permitted development. Furthermore this could well be in a form that would not achieve the design benefits of the appeal scheme, with a possible consequence of a more harmful loss of openness and intrusion into the rural qualities of the area. Bearing in mind that the ratio of the existing house to plot size is very low; that the existing appearance of the house is poor, and that the present accommodation is unsatisfactory by one of the bedrooms being on the ground floor and separated from a bathroom by the kitchen, I consider that there is a reasonable prospect of the fall back being implemented by the appellants or a future owner.

14. In weighing the balance of planning arguments in this case, the starting point is that the proposal is inappropriate development in the Green Belt, which the Framework says deserves substantial weight. However for the reasons explained I consider that the harm caused by the loss of openness would be almost entirely mitigated by the combination of the particular characteristics of the site and the form of the extended dwelling.

15. The Council has not identified any other harm as a result of the proposal, whereas the appellants have conversely argued that the outcome would be of a building of much greater design merit more in keeping with its surroundings. In addition there is the potential for the implementation of the fall back that could cause a more harmful reduction in openness and in a form that would make the building's appearance worse. As indicated, I agree with these points.

16. When taken together I find that the other considerations in this case clearly outweigh the harm caused by the appeal scheme constituting inappropriate

development as defined in Policies GBC1 and ENV5 of the East Herts Local Plan Second Review 2007 and the Framework.

17. Looking at the case as a whole, I therefore consider that 'very special circumstances' exist which justifies the development.

18. I shall therefore allow the appeal. A condition requiring the development to be carried out in accordance with the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. A condition requiring matching external materials will safeguard the visual amenities of the street scene and the rural character of the area by ensuring a harmonious form of development.

Martin Andrews

INSPECTOR

Appeal Decision

Site visit made on 15 June 2015

by Grahame Gould BA MPhil MRTPI

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

Decision date: 13 July 2015

Appeal Ref: APP/APP/J1915/D/15/3011361
Cherrymead, Frogshall 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 and Mrs J Watts against the decision of East Hertfordshire District Council.
- The application Ref 3/14/2014/FP was refused by notice dated 6 January 2015.
- The development proposed is alterations and extensions to create first floor accommodation out of part of the existing bungalow.

Decision

1. The appeal is allowed and planning permission is granted for alterations and extensions to create first floor accommodation out of part of the existing bungalow at Cherrymead, Frogshall Lane, Haultwick, Ware, Hertfordshire SG11 1JH in accordance with the terms of the application, Ref 3/14/2014/FP, dated 11 November 2014, subject to the following conditions:

   1) The development hereby permitted shall begin not later than three years from the date of this decision.

   2) The development hereby permitted shall be carried out in accordance with the following approved drawings: unnumbered 1:2500 site location plan; unnumbered existing plan; and 30-14.

   3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Procedural Matter

2. Given the appealed application's submission date was 11 November 2014, the Council's decision date should read as 6 January 2015 and not 6 January 2014 as stated on the decision notice and I have therefore referred to the 2015 date above.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the appeal property and the surrounding area.

Reasons

4. Cherrymead is a bungalow situated within a comparatively large plot that has been extensively extended. Cherrymead is one of a small group of dwellings in Haultwick, of varied design, which are surrounded by open farmland.

5. Haultwick is situated within the countryside and is therefore within an area of rural restraint for the purposes of Policies GBC3 and ENV5 of the East Herts Local Plan Second Review (April 2007) (the Local Plan). Policy ENV5 indicates that extensions individually or cumulatively should not disproportionately alter the size of original dwellings, however, no quantitative threshold is set out within this policy or its supporting text against which the impact of a proposal should be judged. Policy GBC3 indicates that limited extensions to 'existing' dwellings will be permitted, provided that the proposal complies with Policy ENV5 and again no numerical threshold is cited in Policy GBC3 or its supporting text.

6. The proposed first floor extension would increase this property's floor area vertically by around 120 sq.m, with the previous additions having involved horizontal enlargement. There is no doubt that cumulatively the proposed extension and those that have preceded it would result in Cherrymead having a floor area[1] substantially greater than its original area, which I am told could have been anything between 58 and 126 sq.m[2]. The Council contends that the current proposal and the extensions that have gone before it would amount to Cherrymead's disproportionate enlargement, taking it beyond its tipping point for the purposes of Policies GBC3 and ENV5 of the Local Plan. However, I find that the proposed extension would still leave Cherrymead with a spacious presence within its plot and would, in my opinion, result in the formation of a property that would have a more balanced appearance compared to its rather elongated existing form. I also find that the increased height and mass would not result in Cherrymead being unduly prominent within its surroundings.

7. Accordingly under the circumstances of this proposal, I find there would be no conflict with the objectives of Policies ENV5 and GBC3 of the Local Plan.

Conclusion and Conditions

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

9. Apart from the standard time limit condition, I find it necessary that the development should be built in accordance with the submitted plans and use external materials to match the existing property in the interests of the proper planning of the area and I have therefore imposed conditions to this effect.

Grahame Gould

INSPECTOR

[1] Agreed by the appellant and the Council to be of the order of 320 sq.m
[2] Paragraph 2.11 of the appellant's grounds of appeal

Appeal Decision

Site visit made on 22 June 2015

by J Flack BA Solicitor

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

Decision date: 15 July 2015

Appeal Ref: APP/J1915/D/15/3016578
12 Trinity Road, Ware, Hertfordshire SG12 7DB

- 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 & Mrs Graham & Helen Turner against the decision of East Hertfordshire District Council.
- The application Ref 3/14/2109/FP, dated 25 November 2014, was refused by notice dated 20 January 2015.
- The development proposed is single storey side and rear extension.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of adjoining residents.

Reasons

3. The appeal property is a modest older house within a short terrace. The form of these houses is typical of smaller Victorian terraces: in addition to the main body of the house, each has a substantial rear projection which occupies the majority of the width of the house's plot. The principal part of these projections is of two storeys, but there are in addition single storey elements at the rear, most of which appear to have been extended. The single storey elements of No 12 and the neighbouring house to the north, No 13, comprise flat roofed extensions of roughly equal depth. That of the other neighbouring house, No 11, is much less deep and has a monopitch roof. All three single storey elements occupy the full width of the rear projection. Nos 11 and 12 are, apart from the differences in their single storey elements, a mirror image of each other at the rear: their rear projections are separated from the common boundary by a narrow yard area, the boundary being marked by a close boarded fence.

4. The proposed extension would result in a substantial enlargement of both the width and depth of the present single storey rear element of No 12. The extension would occupy about half the width of the current side yard area. Moreover, in addition to projecting out into the rear garden beyond the current extension, the proposed extension would also project some distance along the side of the current two storey element of the rear projection, leaving only a

small area of the side yard, adjoining the main body of the house, at its current width. Furthermore, while the side wall of the proposed extension facing the common boundary with No 11 would be of about the same height as the flat roof of the present single storey extension, the proposed extension would have a pitched roof, the ridge running parallel with the shared boundary and rising to a point a little below the level of the base of the nearest first floor window.

5. A disadvantage of the form and plan of terraced houses such as these is that the depth of the rear projections and the limited width of the gap between them serves to limit light received through windows on the side of the rear projections and those of the rear rooms of the main body of the house, particularly at ground floor level. These windows also have a restricted outlook. It follows that the No 11 is sensitive to enlargement of the rear projection at No 12, the relevant ground floor windows of No 11 serving a kitchen and dining room.

6. The side wall of the rear projection at No 11 faces approximately north, and it follows that the proposal would not cause any appreciable loss of sunlight. However, whilst daylight received by the ground floor window in this side wall and the ground floor window in the rear wall of the main body of the house is already compromised by the boundary fence, this is not particularly high and the long side wall of the proposed extension would rise considerably above it. Noting also the proximity of this side wall to the boundary and the pitched roof above it, I consider that the proposal would cause an unacceptable loss of daylight received by the dining room and kitchen windows at No 11. The height, bulk and proximity of the extension would also have an unacceptably overbearing and dominating effect on outlook from these windows.

7. Foe the above reasons I conclude on the main issue that the proposal would have a significantly adverse effect on the living conditions of the occupiers of No 11. The appellants refer to planning guidelines, but have not explained what these are or how they consider the proposal complies with them. The Council refers to polices of the development plan[1], and for the above reasons I consider that the proposal would not comply with the requirement of Policy ENV1 that proposals respect the amenity of occupiers of neighbouring buildings, and the requirement of Policy ENV5 that extensions to dwellings do not cause the amenities of any adjoining dwellings to be significantly affected to their detriment.

8. I have taken into account all other matters arising from the evidence before me. I acknowledge the benefit that the additional living accommodation would bring to the occupiers of No 12, but neither this nor any other matter outweighs my conclusion on the main issue. The appeal is therefore dismissed.

J Flack

INSPECTOR

[1] East Herts Local Plan Second Review, April 2007

Appeal Decision

Site visit made on 23 June 2015

by S J Papworth DipArch(Glos) RIBA

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

Decision date: 16/07/2015

Appeal Ref: APP/J1915/Z/15/3007015
The Drill Hall, Market Square, Bishop's Stortford, Herts CM23 3UU

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
- The appeal is made by Unico Restaurant against the decision of East Hertfordshire District Council.
- The application Ref 3/14/2134/AD, dated 26 November 2014, was refused by notice dated 22 January 2015.
- The advertisement proposed is retention of wall mounted sign.

Decision

1. I dismiss the appeal.

Reasons

2. The control of advertisements is exercisable only with regard to safety and amenity and the Council raises no concerns on the former. The main issue in this appeal is the effect of the advertisement on the character and appearance of the Bishop's Stortford Conservation Area. The Development Plan is a material consideration only, and saved Policy BH15 of the East Herts Local Plan Second Review 2007 concerning advertisements in conservation areas states that they will only be acceptable if they conform to four criteria on form, size and illumination, but the preference is for them to be non-illuminated. The National Planning Policy Framework sets out within section 7 on requiring good design; only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the Local Planning Authority's detailed assessment. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

3. The sign was in place at the time of the site inspection and it appears that the location and visibility of the premises, in use as a restaurant under a planning permission submitted in 2013 (3/13/1724/FP), has prompted the placing of various items on the lane leading to the building such as a menu board near the foot of the lane, and free-standing pavement enclosures leading up to the premises. None of these items are part of the present application but indicate the need that the operator feels to advertise the existence of this somewhat secluded business. Their grounds of appeal make clear the view that as a family business there is not the national advertising that could make similar businesses nearby readily recognisable. They also refer to other signage; a

matter referred to by one of the Councillors in representation. However, the existence of other signs which may not fully accord with the wording of the policy is not a compelling reason to allow further signs if there is harm to the character and appearance of the conservation area.

4. The sign is large in comparison with the building, and the more distant public viewpoint does not significantly reduce this appearance. In addition the sign projects into the space in front of the building and obscures much of the architectural detailing of the entrance elevation, which appears to be one of the significant features of this unlisted building in the conservation area, and would otherwise be visible from the public domain. The appellant is of the view that since the effect on the building is not referred to in the reason for refusal, this is not a concern. Nevertheless, the 'visual amenities of the Bishop's Stortford Conservation Area' that are referred to and include the buildings and spaces between, and so it is not unreasonable to conclude that harm to the area can be caused by harm to the buildings within it. The Town Council refer to the advertisement as being out of keeping with the historic building.

5. There has been representation over the fact of illumination, but it is clear that Policy BH15 does not preclude illumination, stating that advertisements shall preferably be non-illuminated, but where illumination is proposed as necessary it should be discreet in size and of a minimum level. Whilst the site was not visited after dark, photographs have been provided of the style of halo illumination and the drawing refers to this style also. This appears discreet, but it is the size of the sign together with its location projecting out from the frontage that cases the harm to the public views within the conservation area. Illumination as such serves to draw attention to these other shortcomings

6. In conclusion, the sign fails to preserve the character and appearance of the conservation area, contrary to the aims of the 1990 Act and the 2007 Regulations, in addition to which the aims of Policy BH15 would not be met. For the reasons given above it is concluded that the display of the advertisement is detrimental to the interests of amenity.

S J Papworth

INSPECTOR

Appeal Decision

Site visit made on 22 May 2015

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 22 June 2015

Appeal Ref: APP/J1915/D/15/3007532
Mulberry House, Green End, Dane End, Hertford SG12 0NX

- 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 Baz Chudasama against the decision of East Hertfordshire District Council.
- The application, Ref. 3/14/2229/FP, dated 7 December 2014, was refused by notice dated 10 February 2015.
- The development proposed is the provision of Ground and First Floor extensions to the existing dwelling.

Decision

1. The appeal is allowed and planning permission is granted for the provision of Ground and First Floor extensions to the existing dwelling at Mulberry House, Green End, Dane End, Ware in accordance with the terms of the application, Ref. 3/14/2229/FP, dated 7 December 2014, 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) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 130529.1; 130529.2A; 130529.D1.E; 130529.D1.P; A1;

    3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The main issue is the cumulative effect of extensions to the dwelling on the character and appearance of the rural surroundings.

Reasons

3. The Council's Notice of Refusal refers to Policies GBC3 and ENV5 of the East Herts Local Plan Second Review April 2007 ('the Local Plan'), which between them seek to impose a restraint on increases in the size of dwellings in the 'Rural Area Beyond the Green Belt' if they are outside the main settlements and Category 1 and 2 Villages. However, paragraph 8.9.2 of the Local Plan refrains

from setting a maximum limit above which extensions are regarded as being 'disproportionate additions' over and above the original dwelling, given the wide range of existing dwelling types and sizes which comprise the rural housing stock.

4. In this context I have noted the appellant's points that the delegated report includes a substantial error in calculating the cumulative percentage increase that the extensions would comprise as regards the original floor space of the dwelling, and that the latter was under-estimated. However whilst I have no reason to disagree with these observations, I am nonetheless satisfied that in terms of floorspace and scale the cumulative effect on the original dwelling can reasonably be described as a 'disproportionate addition' insofar as Local Plan Policy ENV5 is concerned.

5. This conflict with the policy would be harmful in itself in the absence of any other material considerations sufficient to clearly outweigh it. However Local Plan paragraph 8.9.1 and Policy ENV5 itself explain that the objectives of regulating the increases in size relate to the effects on the character and appearance of the existing dwelling; the relationship with adjoining dwellings; the maintenance of a supply of smaller dwellings; the appearance of the locality, and the cumulative impact of development on the countryside. In respect of the locality's appearance and cumulative impact, reference is also made to the need to avoid intrusion into the openness or rural qualities of the surrounding area.

6. The delegated report addresses some of these matters in that after concluding that the proposed floorspace would be a disproportionate addition it goes on to identify what is considered to be 'further harm'. This is described as the increase in the mass and bulk of the dwelling, which would make it significantly more prominent and intrusive and would have a harmful effect on the openness and rural qualities of the surrounding area.

7. However, in making a planning judgement on the actual effect and impact of the cumulative extensions I take a different view. The existing dwelling has no intrinsic architectural merit or rural character, and although the appeal scheme would increase the footprint this is almost entirely in the form of consolidating and infilling the south west rear corner. The existing maximum depth of the building would not change and the main visual impact arises from the increase in the existing modest accommodation within the roof space to form a full two-storey dwelling.

8. I accept that there would be a loss of openness, but the location is not within the Green Belt where that consideration is paramount. In my view the alteration of the existing somewhat squat chalet bungalow into a two storey house, with rendered walls and a slate roof to blend with the semi-detached pair of Sunnyside and its neighbour at roughly the same height, would be an improvement to the building and its setting. The dwelling immediately to the south is also two storey and at my visit I additionally observed that the hamlet of Green End is characterised by some particularly substantial buildings.

9. These include some very large farm buildings a short distance to the north and these are clearly visible from the rear garden of Mulberry House. Opposite these is a large dwelling that appears to be a *Huf Haus*. To the east and south are two

further properties in extensive grounds, the former identifiable as 'Green Park End', and in both cases there is a scale and bulk that appears to be far in excess of the appeal scheme. Taking all these factors into account I do not regard the appeal proposal as being in any way out of keeping or unduly prominent, or as having an adverse effect on the rural qualities of the area. Nor, given its existing size, does it comprise a 'small dwelling', which the policies seek to protect in terms of maintaining a supply of more affordable homes in the countryside.

10. On the main issue I conclude that although clearly in technical conflict with Local Policies GBC3 and ENV5, the cumulative effect of extensions to the dwelling would not have any harmful effect on the character and appearance of the rural surroundings. I do not regard this as setting any sort of meaningful precedent because of the particular circumstances of the application and its surroundings. Moreover, although technically disproportionate in terms of the policies, the overall effect of the extended building would be a dwelling proportionate to both its site and its setting.

11. As mentioned on behalf of the appellant, a further relevant consideration is that paragraph 187 of the National Planning Policy Framework 2012 states that decision-takers at every level should seek to approve applications for sustainable development where possible. The Council has not argued that the proposal is unsustainable. Moreover, the proposed extensions would provide much needed additional accommodation for a growing family.

12. A neighbour has commented that the extended dwelling would overlook his property, but as there would be no first floor windows in the flank elevations I do not consider this to be an issue.

13. For the reasons set out above I shall allow the appeal. In doing so I shall impose a condition requiring the development to be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition requiring matching external materials will ensure that the extensions are in keeping with the existing building.

Martin Andrews

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 21 May 2015

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 17 June 2015

Appeal Ref: APP/J1915/D/15/3006690
45 Heath Row, Bishop's Stortford, Hertfordshire, CM23 5DH

- 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 Martin Cornwall against the decision of East Herts Council.
- The application, Ref. 3/15/0001/FP, dated 1 January 2015, was refused by notice dated 24 February 2015.
- The development proposed is the erection of a shed, 8' 7" x 6' 0", for bicycle storage in the front garden.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The shed has already been erected and the application is therefore for retrospective permission.

Main Issue

3. The main issue is the effect of the shed on the character and appearance of the Heath Row street scene.

Reasons

4. I saw on my visit that the shed is a wooden structure of the type and size typically found in the rear garden of dwellings and used for the storage of domestic paraphernalia, or indeed as in this case, bicycles.

5. However a position in the front garden is unusual and out of keeping with its surroundings. Quite apart from being incongruous, as a very basic wooden shed it is perceived as being unsightly and obtrusive in this context. The appellant refers to caravans and cars being parked in front of houses, but in the normal course of events this reads as part of the character and appearance of a residential road and is acceptable to neighbours.

6. I accept there is a substantial hedge on the front boundary. However in walking or driving towards No. 45 from either direction, but particularly from the south, the shed is clearly visible.

7. The appellant has explained that members of the family have bicycles and there is no access to the rear garden other than through the front door. I acknowledge that this is inconvenient but it does not justify the erection of an unsightly structure in full public view.

8. If I were to allow the appeal the Council would be unable to reasonably refuse similar applications where, for example, there are rows of terraced houses. This would have a cumulatively adverse effect on the character and appearance of those streets and roads.

9. The Council may be able to discuss with the appellant the construction of an alternative structure closer to the house and built of matching materials in order to accommodate the bicycles. However the feasibility and acceptability of this is not a matter for me in this appeal.

10. For the above reasons I conclude that the shed is unduly prominent and unacceptably detrimental to the character and appearance of the Heath Row street scene.

11. The appeal is therefore dismissed.

Martin Andrews

INSPECTOR

Appeal Decision

Site visit made on 15 June 2015

by Grahame Gould BA MPhil MRTPI

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

Decision date: 8 July 2015

Appeal Ref: APP/J1915/D/15/3010126
West Cottage, Hadham Hall, Little Hadham, Ware, Hertfordshire SG11 2EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Anthony Mason against the decision of East Hertfordshire District Council.
- The application Ref 3/15/0090/FP was refused by notice dated 3 March 2015.
- The development proposed is 'two storey extension to side and front extension to replace demolished garage'.

Decision

1. The appeal dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the appeal property and the surrounding area, with particular regard to the scale of the development.

Reasons

3. The appeal development would involve the demolition of an existing detached double garage and the construction of a part single and part two storey side and front extension. West Cottage has variously been extended and is set within an extensive plot and forms part of the original grounds to Hadham Hall. Hadham Hall while being a private estate is accessible to the public via public rights of way.

4. The appeal development would result in the host property's overall width being nearly doubled, which in my opinion would result in the front elevation, in particular, having a poorly proportioned appearance. The property's resulting roofscape would have an awkward relationship with the host property, with the introduction of a confused pattern of ridge lines. The absence of fenestration in the eastern elevation above the garage doors would in my opinion result in this part of the extension having a poor appearance. From what I observed East Cottage has been sympathetically extended, a characteristic which I find the appeal development would not share.

5. I therefore find that the design of the extension would be unsympathetic and would detract from the appearance of West Cottage and the surrounding area, not least because this development would be visible from the public rights of way in the vicinity of this property, namely the east/west route between the

appeal property and Baud Close and the estate's main access. I recognise that Baud Close is a group of comparatively large houses of recent construction, however, the houses within this development share a themed design and scale. I am not persuaded that this neighbouring development creates a context within which the design and scale of the proposed extension should be considered as being acceptable.

6. West Cottage is situated within the countryside and is therefore within an area of rural restraint for the purposes of Policies GBC3 and ENV5 of the East Herts Local Plan Second Review (April 2007) (the Local Plan). Policy ENV5 indicates that extensions individually or cumulatively should not disproportionately alter the size of original dwellings, although no quantitative guidance for the assessment of disproportionately is set out within this policy or its supporting text. Policy GBC3 indicates that limited extensions to 'existing' dwellings will be permitted, provided that the proposal complies with Policy ENV5 and again no numerical threshold against which individual or cumulative enlargements should be assessed is mentioned within this policy or its supporting text.

7. The Council estimates that the floor area for West Cottage with the retained and proposed extensions would be 180% of its original size[1], a calculation which the appellants have not disputed. Cumulatively West Court would therefore become subject to significant enlargement, which I consider would be disproportionate, in relative terms, for the purposes of Policy ENV5 of the Local Plan. The unacceptable appearance of the proposed alterations in my opinion is also indicative of them being disproportionate in scale. I do not find the appellant's proposition that the enlargement of West Cottage's plot, through the purchase of additional land, justifies extending this property along the lines proposed, given that the test for proportionality referred to in Policy ENV5 of the Local Plan relates to the 'original dwelling'. The logic of the appellant's argument would mean that incremental enlargement would be supportable under Policy ENV5 as and when a property's plot was extended, something which I find no basis for under this policy.

8. For the reasons given above I find that the appeal development would have an unacceptable appearance and be of a disproportionate scale resulting in conflict with the objectives of Policies GBC3, ENV1 and ENV5 of the Local Plan.

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

Grahame Gould

INSPECTOR

[1] As recorded in the Council's officer delegated report

Appeal Decision

Site visit made on 22 June 2015

by J Flack BA Solicitor

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

Decision date: 9 July 2015

Appeal Ref: APP/J1915/W/15/3008389
Rush Green Farm, Great Munden, Ware, Hertfordshire SG11 1JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal against a refusal to grant approval pursuant to an application made under Schedule 2, Part 3, paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- The appeal is made by Mr Clifford Maxen against the decision of East Hertfordshire District Council.
- The application Ref 3/15/0171/PR, dated 26 January 2015, was refused by notice dated 27 February 2015.
- The development proposed is the change of use of an existing farm building into a three bedroom property.

Decision

1. The appeal is dismissed.

Procedural matters

2. The description of development given above is that provided in the application. That was made in relation to the provisions of Schedule 2, Part 3, Class MB of the Town and Country Planning (General Permitted Development) Order 1995. On 15th April 2015, that Order was revoked by the Town and Country Planning (General Permitted Development) (England) Order 2015. However, Class MB and related provisions have been re-enacted by Schedule 2, Part 3 Class Q and related provisions of the 2015 Order, and in these circumstances the effect of the Interpretation Act 1978[1] is that anything done under the revoked Class MB now has effect as if done under Class Q. I accordingly refer to the provisions of Class Q in my decision.

Background and Main Issue

3. Paragraph W(3) of Part 3 provides that the local planning authority may refuse an application in specified circumstances: of relevance to the present appeal is that the authority may refuse an application where, in its opinion, the proposed development does not comply with any applicable limitation. At issue here is the limitation imposed by paragraph Q.1 (a) of Part 3, for the Council refused the application because it did not consider that there was an established agricultural unit that would benefit from what are now the Class Q permitted development rights. Notwithstanding this reason for refusal, the Council also

[1] See in particular sections 17 and 23

refused the application on the basis that its location would make a dwellinghouse use undesirable. The appellant contests both of these reasons.

4. Accordingly, the main issue is whether the proposed development would accord with the requirements for development permitted under Class Q of Part 3 of Schedule 2 to the 2015 Order.

Reasons

5. The appeal building is a simple single storey structure, comprising the southern section of a larger building. This in turn forms part of a complex of buildings set back from the road. I understand that these were formerly part of Rush Green Farm, but subsequent changes of ownership have had the result that the buildings and land between the appeal building and the road are not in the appellant's ownership. This extends to the farmhouse and its domestic curtilage, together with a number of single storey structures grouped around a yard, including stables, a small hen house and an enclosure housing ducks. In addition to these, the appellant also owns a number of small fields beyond the farm house; these are laid to grass, on which horses were grazing at the time of my visit.

6. Paragraph Q.1 (a) requires the site to have been used "solely" for an agricultural use on specified dates. "Site" is defined at paragraph X of Part 3, and in the context of the present appeal that term refers to the appeal building as the proposed change of use relates only to this. "Agricultural use" is also defined, it being made clear that this use must be for the purpose of a trade or business. The requirements of Q.1 (a) and the associated definitions are specific and demanding, and accordingly require close assessment.

7. At the time of my visit the appeal building was empty. Its appearance did not correspond with the description given in the application and the survey drawing[2] submitted with the application, it being clad partly in weatherboarding, and various alterations to door and windows openings having been made. Partition walls together with plaster ceilings have been constructed within the building, and some cabling and piping for services installed. The appellant states in final comments that these works were commenced in August 2014 in pursuance of what he refers to as a consent for 5 holiday lets, but no planning permission or other details are before me. Nor is any evidence to support the stated date of commencement before me, although the present appearance of the works is not inconsistent with this.

8. Although it is clear that the appeal building is not at present in agricultural use, the relevant dates for the purposes of paragraph Q.1(a) are the 20th March 2013 or, if the building was not in use on that date, the time when it was last in use. The appellant states that the appeal building was formerly used as part of an intensive piggery, an obviously agricultural use, but that this had ceased by the early 1990s: the Council accepts this, and I have no reason to disagree.

9. However, the application states that the building has been used for the storage of hay, straw, tractors and other agricultural machinery from about 1990 to date. The appellant refers at appeal to the availability to him of alternative buildings more suitable for storage, but this does not demonstrate that the appeal building was not so used. The appellant also refers at appeal to storage

[2] SU/083/01A

use of the appeal building being occasional and opportune, and states that the building was not in use in 2013. However, these qualifications are not mentioned in the application and its supporting documents, and for the purposes of planning a use may be a subsisting use even though it is low key or not continuously active. On the balance of the evidence before me I am not satisfied that the appeal building was not in use on 24 March 2013, and consider that it was instead in use for storage.

10. The remaining question is whether that use is to be considered solely agricultural. The appellant states that the land is an agricultural holding and has provided a supporting Rural Land Register Map, but this does not on its own demonstrate agricultural use of the appeal building for the purposes of paragraph Q.1(a). Hay, straw, tractors and other agricultural machinery are clearly consistent with an agricultural use. However, the first three at least are also capable of consistency with an equestrian use. In this context it is pertinent that the appellant states that Rush Green Farm has been run primarily as equestrian during his ownership, and my observations during my visit were consistent with this. The definition of "agriculture" at Section 336 of the Town and Country Planning Act 1990 includes the use of land as grazing land, but not the keeping of horses or ponies unless kept as livestock for food, skins or other products, or for use in farming. There is no suggestion that this has been the case here, the appellant referring at appeal to limited equine breeding. The definition also includes the use of land for grazing, but this would amount merely to the turning out of animals to graze without being fed by other means, and the use of the appeal building for storage of hay, straw and agricultural machinery is not consistent with such a use.

11. The appellant states that peafowl, ducks and chickens are kept, and that there are 40 fruit trees, but there is no evidence that these activities have been other than subordinate to the equestrian use, nor of any other agricultural use. Moreover, whilst the appellant refers to the sale of eggs to a local retailer, there is no other evidence that any of the non-equestrian activities have been carried on for the purposes of a trade or business.

12. Taking all of the evidence before me into account, I conclude on the balance of probabilities that the appeal building was in use for storage on 20 March 2013, that this storage was at least in part equestrian rather than agricultural in nature, and that to the extent that it was agricultural it was not wholly carried on for the purposes of a trade or business. It follows that I conclude that the appeal building has not been used solely for an agricultural use for the purposes of paragraph Q.1(a) of Part 3 of Schedule 2 to the 2015 Order.

13. This is the primary requirement of paragraph Q.1(a): the proposal's failure to comply with it has, on its own, the result that the proposal does not comply with an applicable limitation. It is therefore not necessary for me to examine the associated secondary requirement that the use be part of an established agricultural unit, or the proposal's compliance with any of the other limitations, conditions or restrictions to which the Class Q permitted development rights are subject.

14. I therefore conclude that the proposed development is not permitted development. Consequently, it is development for which an application for planning permission is required. The planning issues raised by such an application would be a matter for the Council to consider in the first instance

and cannot be addressed under the prior approval provisions set out in the 2015 Order. Accordingly, the appeal is dismissed.

J Flack

INSPECTOR

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PLANNING APPEALS LODGED

Director of Neighbourhood Services (Development Management)

Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Mode
3/14/0689/FP	Redevelopment of site for residential purposes, including removal of all existing buildings and replacement with a detached 3 bedroom house and a terrace of four 2 bedroom cottages on the western part of the site and all ancillary works.	244 Hertingfordbury Road Hertford HertfordshireS G14 2LG	Refusal Delegated	16/06/2015	Written Reps
3/14/1627/OP	Outline application for approximately 24 houses (40% affordable) & provision of public open space, landscaping, parking and associated works. All matters reserved except for access.	Land East Of Cambridge Road PuckeridgeWa re HertfordshireS G11 1RY	Refusual Committee	19/06/2015	Written Reps
3/14/2293/FP	First floor extension over garage	11 TailorsBishops StortfordHertfor dshireCM23 4FQ	Refusal Delegated	06/07/2015	Hearing
3/15/0068/FP	Demolition of existing front projection and erection of two storey extension, with associated changes to the roof, walls and windows	Timbertops34 Firs WalkTewin WoodTewinW elwynHertfordsh ireAL6 0NZ	Refusal Delegated	08/07/2015	Written Reps

3/15/0181/FP	Two storey rear and side and single storey front extensions.	20 Coanwood Cottages Wareside Ware Hertfordshire SG12 7RT	Refusal Delegated	26/06/2015	Hearing
3/15/0214/FP	Erection of a three bedroom dwelling.	1 Newbury Close Bishops Stortford Hertfordshire CM23 2RA	Refusal Delegated	13/07/2015	Written Reps
3/15/0314/HH	Existing roof structure to be removed and replaced with a pitched mansard roof with a table top construction to create second floor accommodation.	Spring End Cottage St Johns Lane Great Amwell Ware Hertfordshire SG12 9SR	Refusal Delegated	09/07/2015	Hearing
3/15/0323/ARPN	Change of use of agricultural building to 2no dwellings	Holborn Farm West End Road Wormley West End Broxbourne Hertfordshire EN10 7QN	Prior Approval Required and Refused Delegated	15/07/2015	Written Reps
3/15/0342/ARPN	Change of use of 3 no. agricultural buildings to 3 no. dwellings	Land At Millfield Lane Millfield Lane Bury Green Little Hadham Ware Hertfordshire SG11 2ED	Prior Approval Required and Refused Delegated	25/06/2015	Written Reps
3/15/0375/HH	Single storey rear extension	109 Cappell Lane Stanstead Abbotts Ware Hertfordshire SG12 8DA	Refusal Delegated	16/06/2015	Hearing
3/15/0388/AGPN	Proposed new road	Land Adjacent To 31 West End Road Wormley West End Broxbourne Hertfordshire EN10 7QN	Prior Approval Required and Refused Delegated	10/07/2015	Written Reps

3/15/0393/FUL	Demolition of existing bungalow and garages to build a new 2 storey detached house.	50 Pepper Hill Great Amwell Ware Hertfordshire SG12 9RZ	Refusal Delegated	15/07/2015	Written Reps
3/15/0781/FUL	Creation of 3no. affordable dwellings. 2no 2 bedroomed dwellings and 1no 3 bedroomed dwelling with associated parking	Land To The North Of Barnacres Ermine Street Colliers End Ware Hertfordshire SG11 1ER	Refusal Delegated	13/07/2015	Written Reps
3/15/0849/FUL	Erection of a detached two storey, 2 bed starter or retirement home	32 Bishops Avenue Bishops Stortford Hertfordshire CM23 3EL	Refusal Delegated	13/07/2015	Written Reps

NOTE: This report shows only appeals lodged since the last Development Management

Background Papers

None

Contact Officers

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DEVELOPMENT CONTROL

Major, Minor and Other Planning Applications

Cumulative Performance for
July 2015
(calculated from April 2015)

	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16
Total Applications Received		448	687									

Percentage achieved against Local and National Targets	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Sep-13	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14		**Targets for Local Performance** ***(set by East Herts)***	**National Targets** ***(set by Government)***
Major %	0%	0%	50%										***Major %***	**60%**	**60%**
Minor %	81%	80%	87%										***Minor %***	**80%**	**65%**
Other %	93%	91%	91%										***Other %***	**90%**	**80%**

Appeals	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16
Total number of appeal decisions (Monthy)	3	6	5									
Number Allowed against our refusal (Monthly)	0	3	2									

Total number of appeal decisions (Cumulative)	3	8	13									
Number Allowed against our refusal (Cumulative)	0	3	5									

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