



James Ellis

Head of Legal and Democratic Services

MEETING : DEVELOPMENT MANAGEMENT COMMITTEE
VENUE : PLEASE NOTE THAT THIS MEETING WILL BE HELD
VIRTUALLY VIA ZOOM.
DATE : WEDNESDAY 29 APRIL 2020
TIME : 7.00 PM

PLEASE NOTE TIME AND VENUE

MEMBERS OF THE COMMITTEE

Councillor B Deering (Chairman)

Councillors D Andrews, T Beckett, R Buckmaster, B Crystall, A Huggins, J Jones, I Kemp, T Page, C Redfern, P Ruffles and T Stowe (Vice-Chairman)

Substitutes

Conservative Group: Councillors S Bull, R Fernando and J Kaye
Liberal Democratic Group: Councillor J Dumont
Labour: Councillor M Brady
Green: Councillor J Frecknall

(Note: Substitution arrangements must be notified by the absent Member to the Committee Chairman or the Executive Member for Planning and Growth, who, in turn, will notify the Committee service at least 7 hours before commencement of the meeting.)

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DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
 - must not participate in any discussion of the matter at the meeting;
 - must not participate in any vote taken on the matter at the meeting;
 - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
 - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
 - must leave the room (or go to a virtual breakout room in a virtual meeting) while any discussion or voting takes place.
2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.
3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.
4. It is a criminal offence to:

- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

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AGENDA

1. Apologies

To receive apologies for absence.

2. Chairman's Announcements

3. Declarations of Interest

To receive any Members' declarations of interest.

4. Minutes - 4 March 2020 (Pages 7 - 16)

To confirm the Minutes of the meeting of the Committee held on Wednesday 4 March 2020.

5. Planning Applications and Unauthorised Development for Consideration by the Committee (Pages 17 - 20)

(A) 3/19/1979/SV - Variation of a S52 (S106) agreement under planning reference 3/0364/85; to remove the discharge of obligation recital no1 - not to occupy as a separate unit from the riding school and stables on the land known as Petasfield Stables at Land at Petasfield Stables, Mangrove Lane, Brickendon_(Pages 21 - 26)

Variation of a S52 (S106) agreement.

6. Items for Reporting and Noting (Pages 27 - 140)

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

(B) Planning Appeals Lodged.

(C) Planning Appeals: Inquiry and Informal Hearing Dates.

(D) Planning Statistics.

7. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

MINUTES OF A MEETING OF THE
DEVELOPMENT MANAGEMENT
COMMITTEE HELD IN THE COUNCIL
CHAMBER, WALLFIELDS, HERTFORD ON
WEDNESDAY 4 MARCH 2020, AT 7.00 PM

PRESENT: Councillor B Deering (Chairman)
Councillors D Andrews, T Beckett,
R Buckmaster, S Bull, B Crystall,
R Fernando, J Jones, T Page, C Redfern,
P Ruffles and T Stowe

ALSO PRESENT:

Councillors J Goodeve and S Newton

OFFICERS IN ATTENDANCE:

Rachael Collard	- Principal Planning Officer
Peter Mannings	- Democratic Services Officer
Jill Shingler	- Principal Planning Officer
David Snell	- Service Manager (Development Management)
Victoria Wilders	- Legal Services Manager

376 APOLOGIES

Apologies for absence were submitted on behalf of Councillors Huggins and Kemp. It was noted that

Councillors Bull and Fernando were substituting for Councillors Huggins and Kemp respectively.

377 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed the public to the meeting and referred to a number of housekeeping issues. He said that webcasting was not possible for this meeting due to a technical fault.

378 DECLARATIONS OF INTEREST

Councillors Ruffles and Deering declared non-pecuniary interests in application 3/19/1826/FUL, on the grounds that they were members of Hertford Town Council, and an allotment site owned by Hertford Town Council abutted the application site.

379 MINUTES - 5 FEBRUARY 2020

Councillor Jones proposed and Councillor Beckett seconded, a motion that the Minutes of the meeting held on 5 February 2020 be confirmed as a correct record and signed by the Chairman.

After being put to the meeting and a vote taken, this motion was declared CARRIED.

RESOLVED – that the Minutes of the meeting held on 5 February 2020, be confirmed as a correct record and signed by the Chairman.

380 3/19/2227/VAR - VARIATION OF CONDITION 10 (SCHEME FOR AFFORDABLE HOUSE) OF PLANNING PERMISSION REF: 3/14/2200/OP (RESIDENTIAL DEVELOPMENT FOR UP TO 85 HOUSES INCLUDING SITE ACCESS, PUBLIC OPEN SPACE AND LANDSCAPING. AMENDED PROPOSAL). TO ALTER RATIO OF TENURE FOR AFFORDABLE AND PRIVATE HOUSING ON LAND SOUTH OF FROGHALL LANE, WALKERN, HERTFORDSHIRE

The Head of Planning and Building Control recommended that in respect of application 3/19/2227/VAR, planning permission be granted subject to a legal agreement and subject to the conditions detailed in the report now submitted. The report also sought delegated Authority for the Head and Planning and Building Control to finalise the detail of the Legal Agreement and conditions.

The Principal Planning Officer, on behalf of the Head of Planning and Building, summarised the application and detailed the relevant planning history. She said that this was a 4.17 hectare site to the South West of Walkern and the applicant wished to vary a condition 10 in order to alter the ration of tenure for affordable and private housing.

Members were advised that Homes England funding had allowed for an additional 4 affordable housing units over and above the 34 affordable units allowed on appeal as part of the original application for 85 dwellings. The Principal Planning Officer said that a new planning permission would be issued to cover the revised tenure.

Councillor Beckett commented on why the social housing had not been pepper potted around this site. The Principal Planning Officer said that she believed the applicant had grouped the affordable housing for management purposes.

The Service Manager (Development Management), on behalf of the Head of Planning and Building Control, said that the original major scheme had been refused prior to the adoption of the District Plan. He confirmed that the planning permission had been granted on appeal by the planning inspectorate using different policies to those in the adopted District Plan.

The Service Manager (Development Management) reminded Members that this application was only a slight variation in respect of the level of affordable housing provision. He said that Members should keep in mind the previous approval of planning permission by the planning inspectorate.

Councillor Page questioned how the occupancy level of the dwellings would be monitored. The Principal Planning Officer said that it was for the affordable housing provider and the Council to ensure compliance.

The Principal Planning Officer confirmed to Councillor Crystall that the Section 106 legal agreement would not be affected by the grant for the additional affordable housing and the detail of the legal agreement would not change.

Councillor R Buckmaster referred to the timing of the

construction of the affordable housing and its phasing in relation to the occupancy of the market housing. The Principal Planning Officer, on behalf of the Head of Planning and Building Control, said that the eastern half of the development was well on the way to completion in terms of the shells of dwellings, which had yet to be fitted out internally.

The Service Manager (Development Management) said that, as the applicant benefited from planning permission, the planning inspectorate would see this as a highly material consideration.

Members were reminded that the variation of condition would provide for 4 additional housing units over and above the 40% policy requirement for affordable housing. Councillor Redfern said that she was not in favour of the lack of pepper potting of the affordable housing. She said however that she was in favour of the additional affordable housing and would be voting in support of this application.

The Service Manager (Development Management) and the Legal Services Manager said that the Council would be at risk of costs being awarded against it on appeal if Members deferred or rejected the application regarding the location of affordable housing. The policies regarding affordable housing were different when this application was approved on appeal compared to current District Plan policies.

Councillor Andrews proposed and Councillor Ruffles seconded, a motion that in respect of application 3/19/2227/VAR, the Committee support the

recommendation for approval, subject to a legal agreement and subject to the conditions detailed in the report now submitted and that authority be delegated to the Head and Planning and Building Control to finalise the detail of the legal agreement and the wording of the conditions.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee supported the recommendations of the Head of Planning and Building Control as now submitted.

RESOLVED – that (A) in respect of application 3/19/2227/VAR, planning permission be granted subject to a legal agreement and the conditions detailed in the report now submitted; and

B) authority be delegated to the Head and Planning and Building Control to finalise the detail of the legal agreement and the conditions.

381 3/19/1826/FUL - DEMOLITION OF GARDEN NURSERY AND THE ERECTION OF 52 DWELLINGS INCLUDING ACCESS, PARKING, AMENITY, PUBLIC OPEN SPACE AND TREE PROTECTION MEASURES HERT4 FORMER BENGEO NURSERY SACOMBE ROAD HERTFORSHIRE SG14 3HG

The Head of Planning and Building Control recommended that in respect of application 3/19/1826/FUL, planning permission be granted subject to a legal agreement and subject to the conditions detailed in the report now submitted.

The Principal Planning Officer, on behalf of the Head of

Planning and Building Control, said that the word “draft” should be inserted before the word conditions in the recommendation. Members were also being asked to approve delegated authority to the Head of Planning and Building Control to finalise the detail of the Legal Agreement and Conditions.

The Principal Planning Officer summarised the application and detailed the location of the site. She detailed the mix of accommodation of 1 and 2 bed flats and 2 to 5 bed houses and said that the application was policy compliant with 40% affordable housing. Members were shown a layout plan of site which detailed the location of the affordable housing.

Members were advised that that the largest building would overlook the central square and at 12 metres in height was of an appropriate scale so as not to be overly dominant. The Principal Planning Officer said that there would be electric vehicle charging points.

Member were also advised that conditions 4, 5 and 7 included full details of landscaping with details to be submitted and agreed by Planning Officers. The Principal Planning Officer said that there had been local objections in respect of highways safety and congestion. She said that there would be a shared cycle storage area and reported that the application met the adopted maximum parking standards.

The Principal Planning Officer said loss of garages was covered by conditions 11 and 14 and Hertfordshire Highways believed that any increase in traffic would not be excessive in terms of congestion. She said that

the construction management plan must include consultation with Bengo School.

Members were advised that the site was located in a groundwater protection zone and contamination prevention measures were required to prevent contamination of groundwater.

The Principal Planning Officer confirmed that a legal agreement was proposed to secure the affordable housing provision.

The Principal Planning Officer concluded that the overall scheme was in accordance with adopted District Plan policies and the master plan document for this site.

Kim Rickards addressed the Committee in support of the application.

Councillor Ruffles referred to the master planning process and said that an important point was pedestrian safety in terms of the availability of safe crossing points. He said that the reference to Wadesmill Lane was incorrect and should have read Watermill Lane.

Councillor Beckett made reference to the concerns of the Crime Prevention Design Officer regarding the lack of oversight of the proposed car parking area. The Principal Planning Officer detailed the location of Wadesmill Lane and Watermill Road. She said that this was an allocated site in the District Plan for this level of housing.

Members were advised that the parking area was hidden and whilst this was not ideal, the area was overlooked by windows to the rear elevation of the proposed development. Councillor R Buckmaster said that the proposed flood test pits would be slow to drain. The Principal Planning Officer said that there was sufficient land for the retention of ancient hedgerows.

Councillor R Buckmaster sought clarification from Officers in respect of condition 11 regarding the use of garages and car ports. The Principal Planning Officer said that converting the garages or car ports would require the occupants to make a planning application. Councillor Crystall said that the pedestrian routes should be completed before the dwellings were occupied.

Councillor Beckett proposed and Councillor Ruffles seconded, a motion that in respect of application 3/19/1826/FUL, the Committee support the recommendation for approval, subject to a legal agreement and subject to the draft conditions detailed in the report now submitted and that authority be delegated to the Head and Planning and Building Control to finalise the detail of the legal agreement and the conditions.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee supported the recommendation of the Head of Planning and Building Control as now submitted.

RESOLVED – that (A) in respect of applications 3/19/1826/FUL, the Committee support the recommendation for approval, subject to a legal agreement and subject to the draft conditions detailed in the report now submitted; and

(B) authority be delegated to the Head and Planning and Building Control to finalise the detail of the legal agreement and the conditions.

382 ITEMS FOR REPORTING AND NOTING

RESOLVED – that the following reports be noted:

(A) Appeals against refusal of planning permission / non-determination;

(B) Planning Appeals lodged;

(C) Planning Appeals: Inquiry and Informal Hearing Dates

(D) Planning Statistics.

The meeting closed at 8.09 pm

Chairman
Date

East Herts Council Report

Council/Executive/Committee

Development Management Committee

Date of Meeting:

29 April 2020

Report by: Sara Saunders, Head of Planning and Building Control

Report title: Planning Applications and Unauthorised Development for Consideration by the Committee

Ward(s) affected: All

Summary

- This report is to enable planning and related applications and unauthorised development matters to be considered and determined by the Committee, as appropriate, or as set out for each agenda item.

RECOMMENDATIONS FOR DEVELOPMENT MANAGEMENT COMMITTEE:

A recommendation is detailed separately for each application and determined by the Committee, as appropriate, or as set out for each agenda item.

1.0 Proposal(s)

1.1 The proposals are set out in detail in the individual reports.

2.0 Background

2.1 The background in relation to each planning application and enforcement matter included in this agenda is set out in the individual reports.

3.0 Reason(s)

3.1 No.

4.0 Options

4.1 As detailed separately in relation to each matter if any are appropriate.

5.0 Risks

5.1 As detailed separately in relation to each matter if any are appropriate.

6.0 Implications/Consultations

6.1 As detailed separately in relation to each matter if any are appropriate.

Community Safety

As detailed separately in relation to each matter if any are appropriate.

Data Protection

As detailed separately in relation to each matter if any are appropriate.

Equalities

As detailed separately in relation to each matter if any are appropriate.

Environmental Sustainability

As detailed separately in relation to each matter if any are appropriate.

Financial

As detailed separately in relation to each matter if any are appropriate.

Health and Safety

As detailed separately in relation to each matter if any are appropriate.

Human Resources

As detailed separately in relation to each matter if any are appropriate.

Human Rights

As detailed separately in relation to each matter if any are appropriate.

Legal

As detailed separately in relation to each matter if any are appropriate.

Specific Wards

As detailed separately in relation to each matter if any are appropriate.

7.0 Background papers, appendices and other relevant material

7.1 The papers which comprise each application/ unauthorised development file. In addition, the East of England Plan, Hertfordshire County Council's Minerals and Waste documents, the East Hertfordshire Local Plan and, where appropriate, the saved policies from the Hertfordshire County Structure Plan, comprise background papers where the provisions of the Development Plan are material planning issues.

7.2 Display of Plans

7.3 Plans for consideration at this meeting will be displayed outside the Council Chamber from 5.00 pm on the day of the meeting. An Officer will be present from 6.30 pm to advise on plans if required. A selection of plans will be displayed electronically at the meeting. Members are reminded that those displayed do not constitute the full range of plans submitted for each matter and they should ensure they inspect those displayed outside the room prior to the meeting.

7.4 All of the plans and associated documents on any of the planning applications included in the agenda can be viewed at:
<http://online.eastherts.gov.uk/swiftlg/apas/run/wphappcriteria.display>

7.5 Members will need to input the planning lpa reference then click on that application reference. Members can then use the media items tab to view the associated documents, such as the plans and other documents relating to an application.

Contact Member Councillor Jan Goodeve, Executive Member for Planning and Growth
jan.goodeve@eastherts.gov.uk

Contact Officer Sara Saunders, Head of Planning and Building Control, Tel: 01992 531656
sara.saunders@eastherts.gov.uk

Report Author Peter Mannings, Democratic Services Officer, Tel: 01279 502174
peter.mannings@eastherts.gov.uk

DEVELOPMENT MANAGEMENT COMMITTEE – 29 APRIL 2020

Application Number	3/19/1979/SV
Proposal	Variation of a S52 (Section 106) agreement under planning reference 3/0364/85; to remove the discharge of obligation recital no1 - not to occupy as a separate unit from the riding school and stables on the land known as Petasfield Stables.
Location	Land at Petasfield Stables, Mangrove Lane, Brickendon
Parish	Brickendon Liberty Parish Council
Ward	Hertford Heath

Date of Registration of Application	27 th September 2019
Target Determination Date	Not applicable
Reason for Committee Report	Variation of Legal Agreement
Case officer	James Mead

RECOMMENDATION

That the planning obligation required by the legal agreement be discharged.

1.0 Summary of Proposal and Main Issues

- 1.1 The site comprises a commercial equestrian riding school and stables situated on the west side of Mangrove Lane. This use of the site dates from the 1980's. The site contains a dwelling (the subject of the application), 4 one bedroom holiday let units, 9 stables, a manage and a lecture room.
- 1.2 Members are advised that this is not a planning application. It is an application to discharge (remove) the requirements of a legal agreement.
- 1.3 In 1986 planning permission was granted under references: 3/85/0364/OP and 3/86/1333/RP for a rural workers dwelling for

the equestrian use. This permission was subject to a Section 52 Agreement (of the Town and Country Planning Act 1971, similar to Section 106 of the 1990 Act). The legal agreement restricted occupation of the dwelling to a rural worker, specifically at the site.

- 1.4 The site lies in the Green Belt wherein under planning policy at the time and now new dwellings are not permitted, except in circumstances where they could be justified. The need for a rural workers dwelling is such a circumstance.
- 1.5 The occupier of the dwelling has operated the riding school/stables for many years but she is now retired and it is operated by a third party who does not live on the site.

2.0 Site Description

- 2.1 The site comprises a commercial riding school and stables situated on the west side of Mangrove Lane. This use of the site dates from the 1980's. The site contains a dwelling (the subject of the application), 4 one bedroom holiday let units, 9 stables, a menage and a lecture room.

3.0 Planning History

- 3.1 The planning history of the site comprises:

3/85/0364/OP – erection of a rural workers dwelling (Outline) granted November 1986.

3/86/1333/RP – erection of rural workers dwelling (Reserved Matters).

3/03/0618/FP - creation of four holiday lets by the conversion of stables and a calving unit granted in May 2003.

3/16/1861/FUL – erection of detached stable block and lecture room granted in October 2016.

4.0 Main Policy Issues

- 4.1 These relate to the relevant policies in the East Herts District Plan and the National Planning Policy Framework 2018 (NPPF).

Key Issue	District Plan	NPPF
Green Belt	GBR1	Section 13
Rural workers dwellings	HOU5	Section 5

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

5.0 Summary of Consultee Responses

- 5.1 No consultation is required for this type of application. However, the application was advertised by neighbour notification and press and site notices. No responses were received.

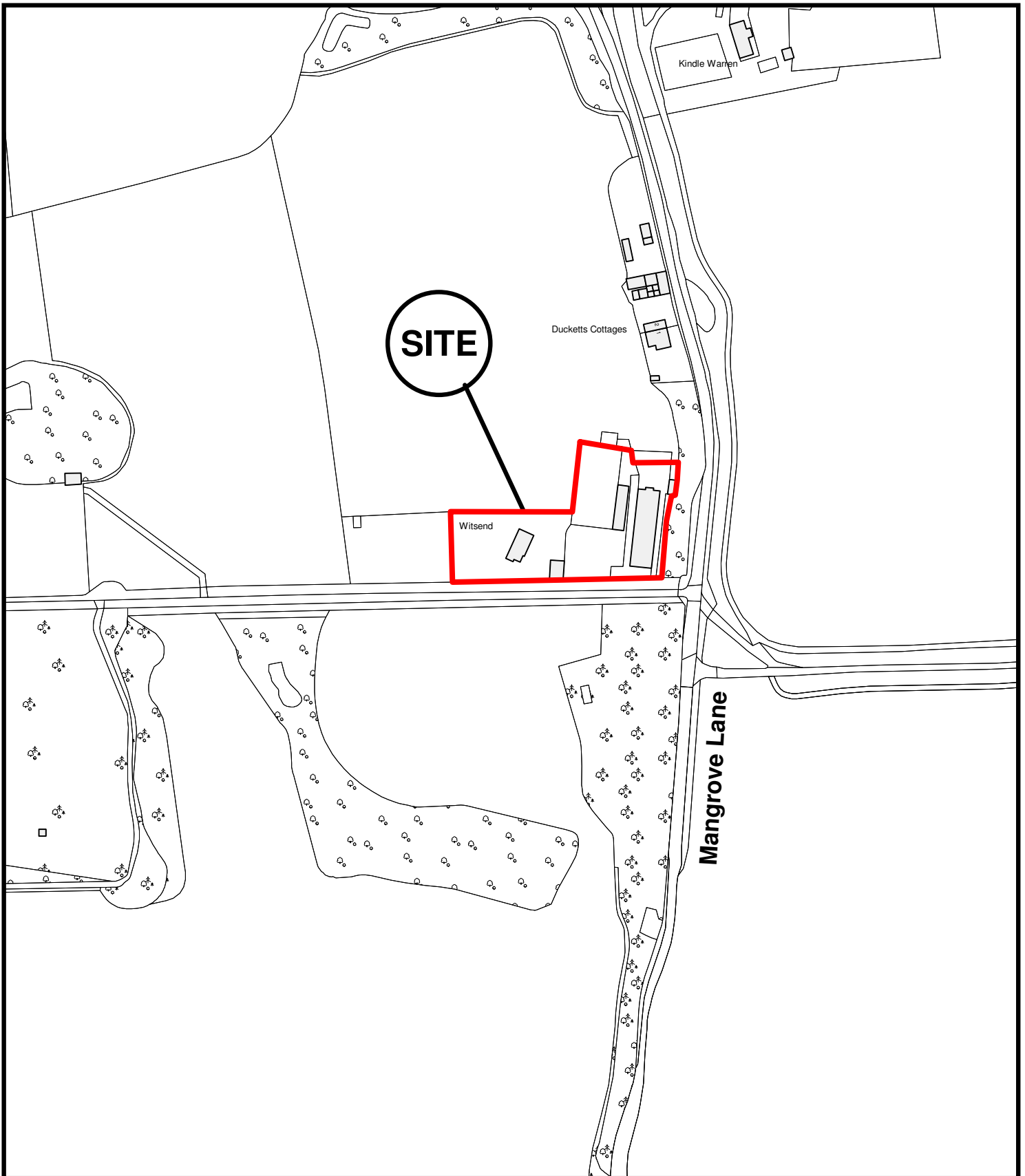
6.0 Consideration of Relevant Issues

- 6.1 The planning permission for a rural worker's dwelling granted in 1986 was subject to a legal agreement restricting occupation to a rural worker specifically at the stables/riding school in the circumstances that new dwellings were not permitted in the Green Belt.
- 6.2 Members are advised that it is no longer the practice to use of a legal agreement in these circumstances. The current practice is to impose the model (which is recommended by government advice) restrictive occupancy condition. An occupancy condition was not imposed on the planning permission in this case. However, a condition was imposed that the dwelling be first occupied by the current occupier who has occupied the dwelling since it was built.

- 6.3 The then practice would now be regarded as overly restrictive and unreasonable and it would not pass the current tests of reasonableness for Section 106 legal agreements or conditions.
- 6.4 The current model condition restricts occupancy to a rural worker (not necessarily specifically at the application site), dependents of a rural worker and a former rural worker (i.e. a retired rural worker) and their dependents. So the restriction is less onerous than the legal agreement imposed in this case in 1986.
- 6.5 The current practice would permit occupation by a retired rural worker, such as the current long term occupier (the applicant). However, in this case the continued occupation of the dwelling by the existing resident would be contrary to the historic legal agreement.
- 6.6 Having regard to current practice and reasonableness tests it is considered that the legal obligation should be removed to enable continued occupation by the long term resident who is a retired rural worker. It is considered the legal obligation imposed in 1986 would no longer be held to be reasonable. Furthermore, the current operator of the use lives off-site and there is no longer a need for the linked accommodation.
- 6.7 It is accepted that the removal of the occupancy restriction could enable the property to be sold on the open market. However, Members are advised that this is not considered to be a material planning consideration in this case. In recommending that the restriction be removed officers have had regard to the historic nature of the legal agreement, current legal agreement/conditions tests and the circumstances of the applicant.

RECOMMENDATION

That the planning obligation required by the legal agreement be discharged.



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**Address: Land At Petasfield Stables (Witsend), Mangrove Lane,
Brickendon, Hertfordshire, SG13 8QQ**

Reference: 3/19/1979/SV

Scale: 1:2500

O.S Sheet: TL3310

Date of Print: 08 April 2020

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**EAST HERTS DISTRICT COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE
ITEMS FOR REPORT AND NOTING
February and March 2020**

Application Number	3/18/1544/FUL
Decsn	Refused
Level of Decision	Committee
Address	Unit 2A Hadham Industrial Estate Church End Little Hadham Ware Hertfordshire SG11 2DY
Appellant	Mr John Ruane
Proposal	New B1 Office building with associated parking
Appeal Decision	Dismissed

Application Number	3/18/1566/FUL
Decsn	Refused
Level of Decision	Delegated
Address	57A High Street Buntingford Hertfordshire SG9 9AD
Appellant	Mr MEHMET GOVHER
Proposal	Change of use from Sui Generis (pet hair and beauty) to A5 take away (fish and chip shop). Installation of new extractor flue pipe to rear elevation. (Hours of operation: Monday to Sunday (including bank holidays) 09:00 to 23:00.
Appeal Decision	Allowed

Application Number	3/18/2528/CLP
Decsn	Refused
Level of Decision	Delegated
Address	The Cabin Birch Farm Place Broxbourne Hertfordshire
Appellant	Mr & Mrs L Barnes
Proposal	Construction of a domestic outbuilding to provide garaging and storage of garden equipment.
Appeal Decision	Dismissed

Application Number	3/18/2717/CLPO
Decsn	Refused
Level of Decision	Delegated
Address	The Cabin Birch Farm White Stubbs Lane Broxbourne EN10 7QA
Appellant	Mr And Mrs L BARNES
Proposal	Extensions to both flanks (east and west) and to the rear (south) elevation
Appeal Decision	Dismissed

Application Number	3/19/0154/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Warren Farm Green Tye Much Hadham Hertfordshire SG10 6JD
Appellant	Paul Radley
Proposal	Change of use from agricultural land, to equestrian. Erection of a stable block and a revised gate entrance.
Appeal Decision	Dismissed

Application Number	3/19/0166/FUL
Decsn	Refused
Level of Decision	Delegated
Address	248 Ware Road Hertford Hertfordshire SG13 7HB
Appellant	Mr J Trustees of Mrs JM Hudson Hudson
Proposal	Demolition of existing garages, closure of one access and creation of new vehicular access. Erection of 1 four bed dwelling, 1 two/three bed bungalow.
Appeal Decision	Dismissed

Application Number	3/19/0266/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Holbrook Farm Benington Road Aston Stevenage Hertfordshire SG2 7EA
Appellant	Mr John West
Proposal	Demolition of 2no. large agricultural barns, relocation of covered horse exerciser and the erection of stable block, garages with workshop and a two storey 4 bedroom residential unit, to include 2 car spaces.
Appeal Decision	Dismissed

Application Number	3/19/0680/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Enclosed Yard Home Farm Industrial EstateHunsdon RoadStanstead AbbotsWareHertfordshireSG12 8LA
Appellant	Mr And Mrs Simpson
Proposal	Demolition of workshop building and erection of workshop building for Sui Generis use. Creation of 7m sloped concreted access for the new workshop, together with the provision of associated soft landscaping.
Appeal Decision	Dismissed

Application Number	3/19/0693/VAR
Decsn	Refused
Level of Decision	Delegated
Address	Edgewood FarmBroxbourne CommonBroxbourneHertfordshire
Appellant	Mr David Felton
Proposal	Removal of condition 9 (Schedule 2, Part 1, Class E of the Order)of planning permission 3/11/1170/FP for 'Replacement dwelling house with basement',The removal of condition 9 will allow (subject to the limitations outlined in the Town and Country Planning (General Permitted Development Order) the provision within the curtilage of the dwelling of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse or a container used for domestic heating purposes
Appeal Decision	Dismissed

Application Number	3/19/0893/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Land Off Chapel LaneLittle HadhamHertfordshireSG11 2AB
Appellant	Timothy Mahoney & Traveller Group
Proposal	Change of use of land to 10 Gypsy/Traveller pitches accommodating the siting of 10 mobiles homes and stationing of 10 touring caravans and 10 utility buildings. Formation of access road and hardstandings.
Appeal Decision	Allowed

Application Number	3/19/0955/HH
Decsn	Refused
Level of Decision	Delegated
Address	16 Wicken FieldsWareHertfordshireSG12 0XH
Appellant	Mr Ryan Thomas
Proposal	Demolition of conservatory. First floor front extension with a part two storey and single storey rear extension. Insertion of window to flank elevation.
Appeal Decision	Allowed

Application Number	3/19/0956/FUL
Decsn	Refused
Level of Decision	Delegated
Address	11,13,15 London RoadSawbridgeworthHertfordshireCM21 9EH
Appellant	Mr Geoffrey Hewson
Proposal	Proposed crossover and the regularisation of a hardstanding and a levelled parking area. to provide 2 off-street parking spaces for nos. 11, 13 and 15 London Road properties.
Appeal Decision	Dismissed

Application Number	3/19/1127/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Water TowerGoldens WayGoldings EstateWaterfordHertfordshire
Appellant	Mr Dermot Flannery
Proposal	Restoration and conversion of a water tower; insertion of cladding and windows and erection of 4 storey stair tower to its support structure, to provide a 1 bedroom dwelling.
Appeal Decision	Dismissed

Application Number	3/19/1128/LBC
Decsn	Refused
Level of Decision	Delegated
Address	Water TowerGoldens WayGoldings EstateWaterfordHertfordshire
Appellant	Mr Dermot Flannery

Proposal	Restoration and conversion of an open steel-framed water tower, with restoring of the steel drum, to create one residential dwelling within the lower structure with the addition four new floors, ribbed grey metal rain screen cladding, windows on three elevations and the construction of a four storey steel-framed stair tower, to brace the structure, with frosted glass panels on all elevations.
Appeal Decision	Dismissed

Application Number	3/19/1238/HH
Decsn	Refused
Level of Decision	Delegated
Address	6 Poplar CloseHigh CrossWareHertfordshireSG11 1AY
Appellant	Mr C Krauss
Proposal	Single storey front extension.
Appeal Decision	Allowed

Application Number	3/19/1341/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Land Adjacent To 24 AshdaleBishops StortfordHertfordshireCM23 4EA
Appellant	Mr David Milne
Proposal	Construction of new 2 bedroom end of terrace house with 2 parking spaces.
Appeal Decision	Dismissed

Application Number	3/19/1463/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Hall Croft And ChurchfieldChurch EndLittle HadhamWareHertfordshireSG11 2DY
Appellant	Ms Hayley Lynskey
Proposal	Change of use of two bungalows to a registered day nursery (D1) and the installation of two electric vehicle charging points
Appeal Decision	Dismissed

Application Number	3/19/1483/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Land Adjacent To 3A Benningfield RoadWidfordWareHertfordshireSG12 8RD
Appellant	Mr And Mrs Woodley
Proposal	Construction of 1no. two storey dwelling and additional vehicle crossover for existing dwelling (3A Benningfield Road).
Appeal Decision	Dismissed

Application Number	3/19/1624/ADV
Decsn	Refused
Level of Decision	Delegated
Address	7 Potter StreetBishops StortfordHertfordshireCM23 3UH
Appellant	Mr Christopher Benzing
Proposal	Erection of 1 internally illuminated fascia sign and 1 internally illuminated projecting sign.
Appeal Decision	Allowed

Application Number	3/19/1658/FUL
Decsn	Refused
Level of Decision	Delegated
Address	The Old NurseriesWidford RoadMuch HadhamHertfordshireSG10 6AT
Appellant	Mr And Mrs Nalder
Proposal	Demolition of detached garage and erection of 1 detached four bedroom dwelling and new vehicle access/crossover.
Appeal Decision	Allowed

Application Number	3/19/1726/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Folly CottageBury GreenLittle HadhamWareHertfordshireSG11 2ES
Appellant	Mr Martin Gay
Proposal	Erection of a detached garage and associated hardstanding
Appeal Decision	Dismissed

Application Number	3/19/1756/HH
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Decsn	Refused
Level of Decision	Delegated
Address	4 Farm CloseWareHertfordshireSG12 7SQ
Appellant	Mr Billy Leonard
Proposal	Garage conversion and alterations to fenestration.
Appeal Decision	AWDPIN

Application Number	3/19/1857/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Former Clay And Gravel QuarryQuarry End ManorSt Marys LaneHertingfordburySG14 2LE
Appellant	Mr NIGEL BRUNT
Proposal	Erection of house, including restoration of former quarry and landscaping, including the creation of a nature habitat.
Appeal Decision	Dismissed

Application Number	3/19/1980/HH
Decsn	Refused
Level of Decision	Delegated
Address	6 Trimms GreenSawbridgeworthHertfordshireCM21 0LX
Appellant	Mr And Mrs Leakey
Proposal	First floor side extension to include a roof dormer.
Appeal Decision	Allowed

Application Number	3/19/2361/HH
Decsn	Refused
Level of Decision	Delegated
Address	15 Bentley RoadHertfordHertfordshireSG14 2EN
Appellant	Mr Ralph Wrangles
Proposal	Two storey front extension.
Appeal Decision	Allowed

Background Papers

Correspondence at Essential Reference Paper 'A'

Contact Officers

Sara Saunders, Head of Planning and Building Control – Extn: 1656

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Appeal Decision

Site visits made on 29 October 2019 and 17 February 2020

by Mike Hayden BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2020

Appeal Ref: APP/J1915/W/19/3224696

Unit 2a, Hadham Industrial Estate, Church End, Little Hadham SG11 2DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Ruane against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/1544/FUL, dated 5 July 2018, was refused by notice dated 6 December 2018.
 - The development proposed is new B1 office building with associated parking.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Following an unaccompanied site visit on 29 October 2019, further information was submitted in third party representations which challenged the floorspace figures on which the appellant's modelling of traffic generation was based and the width of the access road into Church End as stated by the appellant in written evidence. Given that these matters were potentially determinative of the effect of the proposal on highway safety, I invited further comment from the appellant and the local planning authority (LPA). In the light of those exchanges, I conducted a second site visit on 17 February 2020, where I was accompanied by representatives of the appellant, the LPA and the third party, to verify the accuracy of the floorspace figures and the width of the access road. I have taken all of this evidence into account in reaching my decision.
3. An area of car parking has already been laid out on the eastern part of the site, where the appeal scheme shows car parking and landscaping in association with the proposed office building. The Council states that this part of the appeal proposal is retrospective, albeit the appellant disputes this and I note there are differences between what exists on site and what is shown on the submitted plans. I have determined the appeal on the basis of the submitted plans. However, as I have not been provided with evidence of a planning permission for the parking area to the east of the proposed office building, I have considered this element of the proposal in the light of the previous condition of that part of the site, which the Council states was a fenced paddock used in association with horse stabling.

Main Issues

4. The main issues in this case are:

- The effect of the proposed development on the character and appearance of the surrounding area;
- Whether or not the appeal site is a suitable location for the proposed development, having regard to its accessibility by sustainable forms of transport and local and national policies for employment development within the rural area; and
- The effect of the proposal on highway safety.

Reasons

Character and Appearance

5. The appeal site lies on the south east edge of the Hadham Industrial Estate, a small commercial and industrial estate within a former farm complex, which is located in the countryside adjacent to the hamlet of Church End. The site comprises a fenced storage compound, containing machinery, storage units and building materials, surrounded by areas laid to grass and a car park to the east which was formerly a fenced paddock.
6. The immediate context of the site consists of medium and large scale industrial, warehouse and office buildings to the north, forming the industrial estate. To the west of the site is a car park and access road for the estate, beyond which are the gardens and dwellings at 1-4 Hall Farm Cottages. To the immediate south and east the site is substantially screened by a line of mature trees and shrubs along the public footpath (no. 34) leading east to Hadham Hall. Beyond this to the south and east are open fields separating the estate from the grounds of Capell House and Hadham Hall. To the south west of the site are St Cecilia's Church and the remaining dwellings forming Church End. Otherwise, Hadham Industrial Estate and Church End are surrounded by open countryside. So the overall character of the area is rural, but the appeal site is also seen in the context of a complex of commercial and industrial buildings.
7. The proposed office building is designed with a rural character, in the style of a converted barn, with full height windows to the east and west facing gable ends. As such, its design and appearance would be sympathetic to the character of the surrounding rural area. External materials could be made subject to a condition, which would enable the local planning authority to maintain control over its final appearance.
8. The three limbs of the building would be varied in height, with the tallest central element approximately 10m to the apex of its ridge. However, the visibility of the building beyond its immediate context would be largely contained. To the south the line of trees along the footpath and the mature landscape within the grounds of Capell House would substantially screen the building from the A120. From the east it would be mostly obscured in more distant views by the development at Hadham Hall, intervening tree lines and the gradient of the land which falls from east to west. To the north the building would be masked by the industrial estate. To the west immediate views from the public bridleway (no. 37) would be limited by the industrial estate and Hall Farm Cottages. Whilst the upper storeys of the building may be visible in more distant views from the west on Albury Road, it would be seen in the context of the existing large scale commercial buildings within the industrial estate.

9. In close up views from the footpath and bridleway, the building would be visible but would generally be seen against the backdrop of the existing industrial estate. Supplementary landscaping is proposed along the footpath to the south and around the proposed car park to the east. Together with a condition to protect existing trees around the edge of the site, this would help to mitigate the impact of the building on views from the footpath and bridleway and the adjoining hamlet.
10. Notwithstanding the fallback of the extant planning permission for open storage on the appeal site, the appeal proposal would extend and consolidate the industrial and commercial area further to the south. However, the rural design of the proposed building and the fact that its visibility would be substantially contained by the surrounding landscape features and buildings, mean it would not detract from the overall character and appearance of the surrounding rural area. I am also satisfied that the design and visual containment of the proposed building would avoid material harm to the settings of the listed buildings at St Cecilia's Church and Church End Farmhouses.
11. I have considered the previous appeal decision¹ which dismissed a proposal to extend the open storage area on the appeal site. However, the visual impact of further open storage would be very different to that of the well-designed rural office building proposed in this appeal.
12. On this basis, I find that the proposed development would not have a harmful effect on the character and appearance of the surrounding area. It would comply with Policies DES2, DES3 and DES4 of the East Hertfordshire District Plan (2018) (the EHDP) and meet the expectations of paragraph 127 of the National Planning Policy Framework (the Framework) which seeks to ensure developments are sympathetic to local character.

Suitability of Location

13. The appeal site and the industrial estate are located approximately 1 kilometre (km) from the village of Little Hadham to the west and 3km from Bishop's Stortford to the east. The estate houses a range of existing businesses including fruit and vegetable wholesale, brewing, refrigeration, food manufacturing, automotive, furniture, glazing, personnel and childcare companies. In the EHDP, it lies within the Rural Area Beyond the Green Belt, where Policy GBR2 permits new employment generating uses, provided they are compatible with the character and appearance of the rural area and are sustainably located in accordance with Policy ED2. In turn Policy ED2 of the EHDP supports proposals to create new employment generating uses in the rural area where they are appropriately and sustainably located and do not conflict with other policies in the Plan.
14. I have considered the compatibility of the proposal with the character and appearance of the rural area above. With regard to the sustainability of the location in transport terms, Policy TRA1 of the EHDP expects developments to be primarily located in places which enable sustainable journeys to be made. There are bus stops on the A120 at Little Hadham with services from Bishop's Stortford, which is 15 minutes away by bus, and Hertford, around a 40 minute bus journey. Although there are buses to and from Little Hadham on Mondays to Fridays running at peak travel times in the morning and evening, they are relatively infrequent, ranging from every 1 hour 20 minutes to 2 hours.

¹ APP/J1915/A/14/2216160

15. The bus stops are around 900 metres (m) on foot from the appeal site. The Manual for Streets (MfS) (2007) indicates that 800m is a comfortable walking distance, although this is not an upper limit. But the journey to and from the site would require walking along and crossing the A120, which is heavily trafficked, and up the access road into Church End, which has no footpath along most of its length and is frequented by HGVs and commercial vehicles. Although there may be a reduction in traffic along this section of the A120 once the Little Hadham bypass is opened, the whole of this walking route is also unlit. Given the relative infrequency of bus services, the distance to the bus stops from the site and the inconvenience of the walking route, it is not realistic to expect that users of the appeal site would travel by bus, particularly in the autumn and winter months when peak hour journeys may need to be made during the hours of darkness.
16. Likewise the pedestrian routes from dwellings in Little Hadham and Hadham Hall would either be via an unlit footpath along the A120 and the access road into Church End or on off-road, unlit footpaths across the surrounding fields, which would be muddy for at least part of the year. None of these walking routes would offer attractive alternatives to the private car, particularly during the autumn and winter months. Cycling to the site would be possible via the A120, but, given the absence of a dedicated cycleway and the volume of traffic on the road, this is unlikely to be an attractive option either. Although traffic on the A120 for the section from Cradle End to Little Hadham may reduce when the bypass is built, cyclists travelling from Bishop's Stortford and settlements to the west of the appeal site would still have to navigate heavily trafficked sections of the route. Whilst there is a public bridleway running through the industrial estate, which links to Albury Road and provides the opportunity for residents of Little Hadham to cycle to and from the site, it is unsurfaced for the rest of its route, so would not offer a viable cycling journey for workers or visitors travelling to and from elsewhere.
17. The appellant acknowledges that many workers would make use of private vehicles to access the site. Although a travel plan could encourage car sharing, it would do little to improve the take up of otherwise unattractive sustainable transport options. There are no proposals to improve bus services, walking or cycling routes to the site.
18. I have been referred to another appeal decision in respect of a site at the former Albury Lime Kiln², which the Inspector concluded was a suitable location for housing with regard to the principles of sustainable development. I have not been provided with the detailed evidence which was before the Inspector in that case, but I note the appeal was determined over 3 years ago and related to a small residential scheme on the edge of Little Hadham, with access to the village centre via a pavement on a well-lit section of Albury Road. It is a core principle of the planning system that each case must be determined on its own merits. In this case, I am satisfied the evidence demonstrates the appeal site would have poor accessibility by sustainable modes of transport.
19. I acknowledge that paragraph 83 of the Framework expects planning decisions to enable the sustainable growth and expansion of businesses in rural areas. In doing so paragraph 84 of the Framework recognises that sites to meet local business needs in rural areas may have to be found in locations that are not well served by public transport. However, whilst Hadham Industrial Estate is an

² Appeal decision APP/ J1915/W/16/3147738

established rural business location, there is vacant business floorspace within the estate and elsewhere within the Bishop's Stortford area. I have seen little evidence to demonstrate that there is a local need for further B1 office floorspace to be located on the appeal site in order to satisfy local rural business needs that cannot be met in locations which are well served by public transport.

20. Therefore, I conclude that the appeal site is not a suitable location for the proposed development, having regard to its accessibility by sustainable forms of transport and local and national policies for employment development within the rural area. The proposal would fail to accord with Policies GBR2, ED2 and TRA1 of the EHDP. It would also conflict with paragraph 108 of the Framework, which seeks to ensure that development is located where there are appropriate opportunities for sustainable transport modes to be taken up.

Highway Safety

21. The site is accessed via a single lane road into Church End from the A120, which serves the existing industrial estate. Whilst there is a secondary access from Albury Road along the public bridleway, during my visits this was gated at the estate end and unused by vehicles, with all traffic accessing the estate from the A120. The road into Church End operates as a shared surface for vehicles and pedestrians. It provides pedestrian access from the A120 into Church End and the industrial estate and links to footpaths 34 and 38 and bridleway 37 where they enter the hamlet. The Manual for Streets (MfS) (2007) advises that shared surface streets work well in short lengths, in relatively traffic calm environments, and where the volume of motor traffic is below 100 vehicles per hour at peak times.
22. The length of the shared surface for pedestrians to walk is around 200m from the junction with the A120 to the beginning of the pavement near to the access to St Cecilia's Church. Given its extent, I do not consider this to be a short length of shared surface as described in the MfS.
23. In terms of the volume of traffic, the transport assessment (TA) submitted with the appeal modelled traffic generation from the existing and permitted floorspace within the industrial estate, and predicted flows from the proposed development. This was updated³ to take account of the higher levels of floorspace identified in third party representations. The modelling shows that the total traffic generation from the existing, committed and proposed floorspace, when fully occupied, would be between 869⁴ and 951⁵ two-way vehicle movements daily on the road into Church End, of which approximately 18% would be HGVs.
24. Within these daily totals, the hourly flows during the busiest hours in the morning and evening peak periods would be between 91-93 vehicles/hour, based on an existing and committed floorspace figure of 11,467 square metres (sqm), and 99-101 vehicles/hour, based on a floorspace figure of 12,458 sqm. From my on-site assessment of the existing floorspace and analysis of the traffic modelling data, I am satisfied that this range represents the potential maximum hourly traffic flow which would be experienced in Church End once the proposed development and existing and committed floorspace within the industrial estate are fully occupied.

³ In submissions from the appellant dated 29 January 2020 and 13 February 2020

⁴ Based on a total of 11,467 square metres (sqm) for the existing and committed floorspace of the industrial estate

⁵ Based on a total of 12,458 sqm for the existing and committed floorspace of the industrial estate

25. These figures do not include an allowance for the potato store, which was granted planning permission⁶ in 2003, but has not yet been constructed. Although there is evidence on site that the permission has been implemented through the construction of foundations for the building, the officer report on that application explains that traffic movements would not increase as a result of this building. Whether the permission remains extant or has been abandoned is a matter in dispute, but in light of the above it is not determinative in this appeal. Therefore, it is not necessary for me to resolve this dispute to reach a decision in this case.
26. I have also considered the traffic survey submitted by the third party, which indicates the proposed development would increase two-way hourly traffic flows to 113 vehicles/hour during the evening peak period. However, the survey was undertaken in January 2020, which the Department for Transport guidance does not regard as a neutral month for traffic surveys⁷. Therefore, I am not persuaded the data is representative of normal traffic flows into and out of Church End. As such it does not form a reliable basis for assessing the effects of the appeal proposal.
27. With regard to the width of the access road, the MfS shows that a minimum carriageway width of 4.8m is required to allow a car and an HGV to pass and 5.5m to allow two HGVs to pass each other. From the measurements supplied by the appellant and third party and those recorded at the second site visit, it is evident that the width of the road is less than 4.8m along significant parts of its length, including a section just to the north of the bell mouth at the junction with the A120. It is also apparent from my observations of vehicle movements on site and the carriageway measurements that the road is not wide enough along large sections of its length to allow two HGVs to pass without driving onto the verge.
28. Although the appeal proposal would only generate 2 HGV movements per day, it would add up to 25 additional vehicles/hour onto the road at peak times. This would materially increase the frequency with which cars and HGVs would be unable to pass without driving onto the verge. Although the road into Church End is relatively straight with sufficient forward visibility to allow drivers to see oncoming vehicles, there are no obvious passing places.
29. It is evident, therefore, that the proposal would have a worsening effect on the flow of traffic on the access road, to the extent that it could exceed the threshold at which the MfS advises shared surfaces work well. This would be experienced over a considerable length of shared surface, where the width of the road is too narrow in places to allow vehicles to pass without using the verge. I consider that the combination of these factors would be likely to increase the conflict between vehicles and between vehicles and pedestrians, to the extent that the safety of pedestrians and vehicles using the road would be unacceptably compromised.
30. Paragraph 109 of the Framework states that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety or a severe residual cumulative impact on the road network. The tests in Policy TRA2 also reflect this. Whilst the local planning authority and highway authority have not objected to the proposal on the grounds of highway impact, from my analysis of the evidence and observations on site I conclude that the additional traffic generated by the proposed development would have an

⁶ Planning permission 3/02/2233/FP

⁷ Paragraph 3.3.6 of TAG Unit M1.2 – Data Sources and Surveys, Department for Transport (January 2014)

unacceptable impact on highway safety for both pedestrians and vehicles along the length of the shared surface road serving Church End. Consequently, the proposal would fail to accord with Policy TRA2 of the EHDP and conflict with paragraph 109 of the Framework.

Conclusion

31. In the overall planning balance, the absence of harm to the character and appearance of the rural area would not reduce or outweigh the poor accessibility of the site by sustainable modes of transport and the harm the proposal would cause to highway safety. For the reasons given above, therefore, I conclude that the appeal should be dismissed.

M Hayden

INSPECTOR



Appeal Decision

Site visit made on 10 March 2020

by **T A Wheeler BSc (Hons) T&RP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

Appeal Ref: APP/J1915/W/19/3242875

57A High Street, Buntingford SG9 9AD

- 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 _____ against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/1566/FUL, dated 29 July 2018, was refused by notice dated 6th June 2019.
 - The development proposed is Change of use from Sui Generis (Pet Hair and Beauty) to A5 Take Away (Fish and Chips).
-

Decision

1. The appeal is allowed and planning permission is granted for Change of use from Sui Generis (Pet Hair and Beauty) to A5 Take Away (Fish and Chips) and installation of new extractor flue pipe to rear elevation at 57A High Street, Buntingford SG9 9AD, in accordance with the terms of the application, Ref 3/18/1566/FUL dated 29 July 2018, subject to the following conditions:
 - 1) The development hereby permitted shall be begun three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: Location Plan and Block Plan BS18-03; Existing Plans Rev-BS19-01; Proposed Plans Rev-BS19-02.
 - 3) The premises shall be only be open for customers between the following hours only: 1200 to 2200 Mondays - Sundays.
 - 4) Prior to any use hereby permitted commencing, a scheme for protecting the existing dwellings from noise and vibration arising from the change of use, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details, and shown to be effective prior to the use hereby permitted being brought into use, and it shall be retained and maintained in accordance with those details thereafter.
 - 5) Prior to any hereby permitted use commencing, an odour impact assessment and scheme containing full details of arrangements for internal air extraction, odour control, discharge to atmosphere from cooking operations (including any external ducting and flues) and a maintenance schedule shall be

submitted to and approved in writing by the local planning authority. The works detailed in the approved scheme shall be installed in their entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the local planning authority.

6) The finished colour of the proposed flue stack and the method of application of the finish shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of the flue stack and shall thereafter be maintained for the lifetime of the development.

Procedural Matter

2. The application forming the subject of the appeal was made by Mr Govher, as stated in the banner. The appeal is made by Mr Bahadir Sari, with the agreement of the applicant.
3. The Council has amended the description of development used in the application to include reference to the proposed flue stack and also opening times. In the interests of accuracy, the reference to the flue stack is necessary and therefore I proceed on that basis. The matter of opening times can be addressed via condition, should I be minded to allow the appeal.

Main Issue

4. The premises forming the subject of the appeal (the property) are located within the Buntingford Conservation Area. The proposal does not include any changes to the building other than the insertion of a flue stack in a side facing roof, within the passageway between the property and no 59a. The Council considers that the proposal would not affect the character or appearance of the conservation area and I see no reason to take a different view.
5. In light of the above, the main issue is the effect of the proposed change of use on the living conditions of the occupiers of nearby dwellings due to noise disturbance and odour.

Reasons

6. The property is a vacant shop unit located within the town centre and comprises approximately half the ground floor of a 2 storey building of modern construction. The other half of the building at ground floor is in use as a hot food takeaway, and at first floor there are 2 flats, nos 1 and 2 Anvil Court. To the rear of the building there are other dwellings at Anvil Court and Yew Tree Court.
7. There are concerns that the proposal would result in the residents of nearby dwellings experiencing odours and noise from the preparation of hot food, in this case fish and chips. In response to these concerns an odour filtration and noise assessment have been submitted.
8. The noise assessment¹ considered the emissions from the proposed flue, with silencer fitted, against background noise levels measured at a location within

¹ Report VA2558.190213.NIA 57A High Street Buntingford – Noise Impact Assessment dated 21 February 2019, Venta Acoustics

Anvil Court and in accordance with the methodology in British Standard BS4142:2014. The assessment shows that noise emissions from the flue would be less than the prevalent background noise levels. The assessment also considered the potential for structure borne noise, against the criteria in BS8233 and having regard appropriate mitigation such as rubber fixings to reduce the transmission of vibration. In the case of both breakout and structure borne noise the assessment found that levels would be within those recommended in the British Standard.

9. The Council's Environmental Health Officer (EHO) was not satisfied that the noise assessment report properly addressed the potential impacts on residents, since it identified the houses to the rear of the property as being those most affected, rather than the 2 dwellings at 1 and 2 Anvil Court, above the property. The EHO was particularly concerned given the sound of air discharging from the stack and the potential for vibration impacts to affect the occupants of the flat at no 2.
10. The appellant has therefore submitted a letter from his noise consultant responding to the EHO concerns. Owing to the position of the flue stack at the side of the building, the set back of 1m from external walls, and with no line of sight to the adjacent flat, the noise levels would be within background noise levels.
11. With regards to odour, a report has been submitted with the appeal by a supplier of kitchen filtration equipment² in accordance with DEFRA guidance. The report specifies the carbon filtration system which would be necessary to achieve the very high level of odour control that would be required given the proximity of residential properties to the site.
12. The Council remains concerned that the extract and filtration equipment referred to in the appellant's noise and odour report does not correspond with that which is specified in the plans. The Council suggests that it is possible that the equipment supplied may be of a size that could not be accommodated within the room sizes shown on the plans.
13. However, given the evidence before me and the potential to impose planning conditions requiring that the final specification of the extract, filtration and flue fixings must be agreed with the Council, there is no evidence to conclude that these matters would give rise to noise levels and odours which would be harmful to the living conditions of nearby residents.
14. Aside from the potential for noise and odours from the extract flue to affect living conditions, there is the possibility that the use could give rise to general disturbance from customers visiting the proposed takeaway, especially late in the evening when the town centre may be quieter. Although not raised by the Council in its reason for refusal, it was raised as a concern by the EHO, and has been mentioned by a number of interested parties. It has been suggested that there are some existing problems of late night disturbance in the area, and the addition of a hot food takeaway close to a number of other such uses could add to these problems. However, the property is in a town centre location where existing levels of activity are likely to be higher than in a residential area, and

² Purified Air, report prepared for Ali Kosele of Alko Design and Build dated 27 March 2019

there is no clear evidence before me to support the argument that the proposal would create unacceptable noise and disturbance in the local area.

15. It has been suggested strongly that the operation of the adjoining pizza takeaway business has led to problems due to noise and odours from the extract ventilation, litter, and the use of residents' bins when the trade bin for the business is full. Problems with drains becoming blocked due to grease and kitchen roll have occurred, which interested parties state were the result of the existing A5 use. The suggestion is that the proposal would be likely to add, cumulatively, to these issues. The appellant maintains that the existing use has not caused any harm to the living conditions of local residents, however I note the comment of the EHO that there is a long and ongoing history of noise and odour complaints.
16. The Council has referred to policies in the East Herts District Plan October 2018 (the District Plan) in support of its reason for refusal. The Buntingford Community Area Neighbourhood Plan 2014 – 2031 (the Neighbourhood Plan) also forms part of the development plan, and the Council has drawn my attention to Policies BE5 and BE6. Policy BE5 relates to the loss of a number of uses, including Class A5, from within the neighbourhood plan area and is therefore of limited relevance to the appeal. Policy BE6 relates to proposals for the changes of use identified under BE5, including Class A5, and states that such changes will be supported where they would not harm the living conditions of neighbouring residents and are otherwise consistent with sustainable development. In effect, the policy does not impose any additional test of acceptability in addition to those District Plan policies referred to by the Council in the reason for refusal.
17. I therefore conclude that the proposed change of use would not cause harm to the living conditions of the occupiers of nearby dwellings due to noise disturbance and odour, subject to necessary planning conditions, and would conform to Policy DES4 and Policy EQ2 of the District Plan and Policy BE6 of the Neighbourhood Plan, which amongst other things require that proposals should minimise direct and cumulative noise impacts, particularly where close to noise sensitive uses, and be supported by a noise assessment; and should avoid significant detrimental impacts on the occupiers of neighbouring properties and land.

Other Matters

18. Interested parties say that there are existing problems due to parking of customer cars visiting the hot food takeaway at no 57 obstructing access to the residential properties to the rear of the property. The appellant suggests that most sales will be delivery based³, but even if that were to be the case there would still be the coming and going of cars collecting meals for delivery. However, the Highways Authority did not object to the application but commented that waiting restrictions are in place and on street parking spaces exist nearby. Regarding the storage of waste, the Council does not assert that there is any problem, and as commercial premises within a town centre location it is reasonable that the property should be provided with a trade bin of enough capacity to serve its needs.

³ The comment is included in application plan Rev-BS19-02

19. The Council has not raised a concern regarding the visual appearance of the flue stack, and states that it would not be visible from the High Street. Given the height and position of the flue when viewed from within the courtyard to the rear, it would be a noticeable feature, although not obtrusive if colour coated to an appropriate colour. The application plans propose that the stack would be painted matt rosemary red to match the roof tiles. The colour and a robust means of application should be agreed with the Council to avoid any problems of paint peeling as a result of the heat of the stack.

Conditions

20. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Planning Practice Guidance. I find the majority to be reasonable and necessary in the circumstances of this case and some have been edited for consistency and clarity.
21. For certainty I attach the standard planning condition limiting the period of the consent to 3 years and a condition requiring the development to be carried out in accordance with the approved plans.
22. The proposal, as originally submitted, proposed the opening hours 900 to 2300 hours. The Council suggests that the opening hours are limited to 1200 – 2200 which the appellant has not disagreed with. I consider that a condition limiting the opening hours to 1200 -2200 is necessary in order to reduce any potential for late night disturbance which could affect local residents.
23. The appellant has suggested the form of planning conditions to require the submission of details of air extraction plant, including measures for odour control and a maintenance regime and the control of noise emissions⁴. The Council suggests similar planning conditions relating to odour impact and the arrangements for air extraction and the control of noise and vibration. Notwithstanding the information already submitted by the appellant it is important that these details are subject to final approval to ensure that any potential issues of noise disturbance and odours from the extract plant are fully mitigated and I therefore attach 2 conditions to cover these matters.
24. As mentioned above, a condition is attached requiring the finished colour of the flue stack to be agreed with the Local Planning Authority. The appellant agrees to the attachment of the condition, together with the conditions relating to the details of the air extraction plant and noise.

Conclusion

25. For the above reasons and taking account of other matters raised, the appeal is allowed.

Tim Wheeler

INSPECTOR

⁴ Included on application plan Rev-BS19-02

Appeal Decision

Site visit made on 21 January 2020

by **John Whalley**

an Inspector appointed by the Secretary of State

Decision date: 03 February 2020

Appeal ref: APP/J1915/X/19/3229787

The Cabin, Birch Farm, White Stubbs Lane, Broxbourne, Herts, EN10 7QA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal by East Hertfordshire District Council to grant a certificate of lawful use or development.
- The appeal was made by Mr and Mrs Les Barnes.
- The application, reference 3/18/2525/CLP, dated 16 November 2018, was refused by a notice dated 11 January 2019.
- The application was made under section 192(1)(b) of the Act for a certificate of lawfulness for the proposed development.
- The development for which a certificate of lawful use or development was sought was described in the application as: "The construction of a domestic outbuilding to provide garaging and storage of garden equipment".

Summary of decision: A certificate of lawfulness is not issued.

Appeal property

1. The Appellants, Mr and Mrs Les Barnes, live at The Cabin, Birch Farm, Broxbourne. The Cabin is a flat roofed single storey building constructed with timber weatherboard on a timber frame. It was granted a certificate of lawfulness on 14 July 2017 for: "The erection of a building and its use as a single dwelling for a continuous period in excess of four years".

Note: This appeal decision runs contemporaneously with appeal ref: APP/J1915/X/19/3234431 that deals with an application for a certificate of lawful development for extensions to both flanks (east and west) and to the rear (south) elevation at The Cabin, Birch Farm, White Stubbs Lane, Broxbourne EN10 7QA.

Application proposal

2. Mr and Mrs Barnes wish to construct a domestic outbuilding to provide garaging and storage of garden equipment for use in association with their residential occupation of The Cabin. The single storey building would have a plan area of 9.5m x 7m.
3. The Appellants said the erection of the garage/storage building would be development permitted by Article 3, Schedule 2, Part 1, Class E to the Order. The Council's reason for refusing to issue a certificate of lawfulness said the garage/store outbuilding fell outside the scope of Part 1, Class E of the Order. That was because the land surrounding The Cabin was agricultural

land. The building had no residential curtilage. It could not benefit from permitted development concessions in Class E of the Order.

4. Although the Council describe the earlier use of The Cabin land as agricultural, the Appellants said it had been used for many years as part of the Birch Farm equestrian centre. The letter from P Redburn & Co dated 7 January 2020 refers to the cessation of Mr and Mrs Barnes trading business activities by 31 March 2013. It is unclear as to whether those activities were on the current appeal land and whether they amounted to a significant use of the land, separate from the former equestrian use.
5. The history of The Cabin land was not set out in detail. But if the equestrian use ceased some time before other development took place, (mere cessation of a use is not development), it could have been abandoned, (*Hartley v MHLG [1970] 1QB 413*). The land could have been left with a nil use.

Inspector's Considerations

6. For The Cabin to benefit from the Order's permitted development rights here, it must be a dwellinghouse and have a residential curtilage.

Dwellinghouse

7. Circular 10/97 was withdrawn on 7 March 2014. It was replaced by Planning Practice Guidance in the National Planning Policy Framework. However, the interpretation of "use as a single dwelling house" in para. 2.81 of that Circular may remain relevant. It said: "*It is important to distinguish the term "use as a single dwellinghouse", in section 171B(2), from what might normally be regarded as being a single dwellinghouse. Experience has suggested that, on occasion, people may adapt, or use, unlikely or unusual buildings or structures as their home or dwellinghouse. However, the Courts have held that, although there is no definition of what is a dwellinghouse, it is possible for the reasonable person to identify one when he sees it. If no reasonable person would look at a particular structure used as a dwellinghouse and identify it as such, it is justifiable to conclude, as a matter of fact, that it is not a dwellinghouse. In those circumstances, while its use as a dwellinghouse might be immune from enforcement action, it is not a dwellinghouse as such and, accordingly, would never enjoy the benefits of "permitted development" rights under Article 3 of, and Part 1 of Schedule 2 to, the GPDO.*". I am unaware of any contradictory judgement that supersedes or sets aside that judgement.
8. The test is that if no reasonable person would look at a particular structure used as a dwellinghouse and identify it as such, it is justifiable to conclude, as a matter of fact, it is not a dwellinghouse. In my view, The Cabin building does not look like a dwelling. It is fitted out and furnished to a good domestic standard. However, its external appearance is that of a large shed, built with materials and finishes unsuitable and unfit for residential occupation. The building has a several windows, their curtain netting giving some hint of domestic use. But the strong contrast with recently built housing at Birch Farm endorses the view that the appeal building does not look as if built for residential occupation. It is not a dwellinghouse such that concessions in Schedule 2, Part 1, to the Order are available.

Curtilage

9. The certificate of lawful use or development dated 12 July 2017, reference 3/17/1246/CLE, was for "Erection of a building and its use as a single dwelling for a continuous period in excess of four years", (as set out in the First Schedule). Note 3 to the certificate said it applied only to the extent of the matter specified in the first schedule to the land at The Cabin identified on the attached plan. It seems no plan was attached. But the certificate said the decision related to location plan BF/01. A copy of plan BF/01 shows The Cabin building within a red outlined area of land which scales at about 70m x 70m.
10. The Appellants said plan BF/01 showed the lawful curtilage to The Cabin. That was, in their view, confirmed by the 12 July 2017 certificate of lawfulness. They pointed to wording on page 1 of the certificate "... *in respect of the land hatched*/coloured red on the plan attached to this certificate, ...*", which they claimed clearly included the curtilage land around The Cabin. But plan BF/01 was not attached to the certificate. The Council's view was that the red line did no more than indicate the application site. They said the 4 year rule applied only to the building and that whilst use of the land may have been identified in the application, the 10 year immunity rule would apply to the change of use of the land from its previous use to use as garden land or residential curtilage.
11. HHJ Hickinbottom in the case of *Newland v Secretary of State for Communities and Local Government and Waverley B.C. [2008] EWHC 3132 (Admin)*, said: "*In any event, for land ancillary to a dwelling house not to have the same four year time limit as the building itself would lead to very odd, if not impracticable, results: because it would be open to a planning authority to enforce against (e.g.) a garden ancillary to a dwelling house for six years after the dwelling house as a structure would be immune from enforcement procedure. Given the nature of land that is ancillary to a dwelling house, and the principles set out in Burdle, that cannot be the intention of the statutory provisions. I accept the submission of Mr Strachan that the change of use of land ancillary to a dwelling house can properly be considered as a part of the change of use affecting the dwelling house itself: and the Inspector correctly observed that, once the use of a building as a dwelling house becomes lawful under Section 171B(2) so does the use of land within the same planning unit.*"
12. However, in the case of *R (oao Gore) v SSCLG & Dartmoor NPA [2008] EWHC 3278 (Admin)*, Mr Justice Sullivan, (as he then was), said: "*While it may be relatively unusual for a building used as a dwelling not to have a residential curtilage, it is perfectly possible that such circumstances may arise, and one can readily understand why they arose in this particular case, where, according to the inspector in the 2006 decision letter, in or about 1999 a forestry building had begun to be used as a dwelling.*"
13. In the above extracts, *Newland* refers to the planning unit. *Gore* refers to "curtilage". There is a distinction between the planning unit and the curtilage of a building that stands within that planning unit. They could cover the same area. But the two are not synonymous. In the present instance, a determination of the extent of the planning unit does not assist the need to

decide whether or not The Cabin has a residential curtilage and, if it has, the extent of that curtilage. The curtilage of a building does not represent a use of the land for the purposes of planning legislation. But, as here, it is relevant to whether there are permitted development rights available to Mr and Mrs Barnes.

14. The Council, in dealing with the application for a lawful development certificate accepted that The Cabin building had acquired a lawful residential use. But in responding to the present appeal, they said it had no residential curtilage, but sat tightly and immediately surrounded by agricultural land. If the Council were right on that point, the use of the BF/01 plan red lined area might be a mixed residential and agricultural use. Following *Gore*, that a building used as a dwelling might not have a residential curtilage, the evidence supporting the Appellants' case that the BF/01 red lined area has a lawful residential use ancillary to the residential use of the Cabin building is based more upon assertion and expediency than upon supporting evidence.
15. The Appellants accepted that the lawful use certificate was not entirely clear. I agree. I do not conclude that it certifies both the residential use of the building and the area within the red line for use, (or ancillary to) use as a single dwelling house. The evidence of the type of use, its extent, continuity and the degree to which it was part of a material change of use over the relevant 4 year period prior to the 12 July 2017 certificate application being made, was scant. While *Newland* appeared to be dealing with a recognisable garden area and a defined planning unit, the situation here seems to me to be more akin to the example considered by Mr Justice Sullivan in *Gore*, where as here, a building was erected on what may have been abandoned equestrian centre land and where there appears to have been some ill-defined boundaries and no clear garden area or planning unit. There would be comings and goings to access The Cabin building from the Birch Farm roadway. But its extent and position is not known, or whether that use amounted to a material change of use of the land around The Cabin building.
16. On the evidence before me, I am not persuaded that any land surrounding The Cabin building is curtilage land associated with its residential use. The benefits of the concessions contained in Article 3, Schedule 2, Part 1, Class E to the Order to build the proposed domestic outbuilding are not available.

FORMAL DECISION

17. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development in respect of the construction of a domestic outbuilding to provide garaging and storage of garden equipment at The Cabin, Birch Farm, White Stubbs Lane, Broxbourne EN10 7QA was correct and that the appeal should fail. I exercise the powers transferred to me in section 195(3) of the 1990 Act as amended.

John Whalley

INSPECTOR

Appeal Decision

Site visit made on 21 January 2020

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 03 February 2020

Appeal ref: APP/J1915/X/19/3234431

The Cabin, Birch Farm, White Stubbs Lane, Broxbourne EN10 7QA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal by East Hertfordshire District Council to grant a certificate of lawful use or development.
- The appeal was made by Mr and Mrs L. Barnes.
- The application, reference 3/18/2717/CLP, dated 12 December 2018, was refused by a notice dated 22 February 2019.
- The application was made under section 192(1)(b) of the Act for a certificate of lawfulness of the proposed development.
- The development for which a certificate of lawful use or development was sought was described in the application as: "Extensions to both flanks (east and west) and to the rear (south) elevation The Cabin Birch Farm White Stubbs Lane Broxbourne EN10 7QA".

Summary of decision: A certificate of lawfulness is not issued.

Appeal property

1. The Appellants, Mr and Mrs Les Barnes, live at The Cabin, Birch Farm, Broxbourne. The Cabin is a large flat roofed single storey building constructed in sections with timber weatherboard on a timber frame. It was granted a certificate of lawfulness on 12 July 2017 for: "The erection of a building and its use as a single dwelling for a continuous period in excess of four years".

Note: This appeal decision runs contemporaneously with appeal ref: APP/J1915/X/19/3229787 that deals with an application for a certificate of lawful development for the construction of a domestic outbuilding to provide garaging and storage of garden equipment on land at The Cabin, Birch Farm, White Stubbs Lane, Broxbourne EN10 7QA.

Application proposal

2. Mr and Mrs Barnes wish to extend their home, The Cabin. They said the extensions were permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015, (the Order). Specifically, they said the proposed additions to their home would be development permitted by Article 3, Schedule 2, Part 1, Class A to the Order.
3. The Council's reason for refusing to issue a Certificate of Lawfulness said the extension works were outside the scope of the Order. That was because the dwelling had no residential curtilage. All the land surrounding the walls of The Cabin was agricultural land on which the extensions would be built.

4. Although the Council describe the earlier use of The Cabin land as agricultural, the Appellants said it had been used for many years as part of the Birch Farm equestrian centre. The letter from P Redburn & Co dated 7 January 2020 refers to the cessation of Mr and Mrs Barnes trading business activities by 31 March 2013. It is unclear as to whether those activities were on the current appeal land and whether they amounted to a significant use of the land, separate from the earlier equestrian use.
5. The history of The Cabin land was not set out in detail. But if the equestrian use ceased some time before other development took place, (mere cessation of a use is not development), it could have been abandoned, (*Hartley v MHLG [1970] 1QB 413*). The land could have been left with a nil use.

Inspector's Considerations

6. For The Cabin to benefit from the Order's permitted development rights here, it must be a dwellinghouse and have a curtilage.

Dwellinghouse

7. Circular 10/97 was withdrawn on 7 March 2014. It was replaced by Planning Practice Guidance in the National Planning Policy Framework. However, the interpretation of "use as a single dwelling house" in para. 2.81 of that Circular may remain relevant. It said: "*It is important to distinguish the term "use as a single dwellinghouse", in section 171B(2), from what might normally be regarded as being a single dwellinghouse. Experience has suggested that, on occasion, people may adapt, or use, unlikely or unusual buildings or structures as their home or dwellinghouse. However, the Courts have held that, although there is no definition of what is a dwellinghouse, it is possible for the reasonable person to identify one when he sees it. If no reasonable person would look at a particular structure used as a dwellinghouse and identify it as such, it is justifiable to conclude, as a matter of fact, that it is not a dwellinghouse. In those circumstances, while its use as a dwellinghouse might be immune from enforcement action, it is not a dwellinghouse as such and, accordingly, would never enjoy the benefits of "permitted development" rights under Article 3 of, and Part 1 of Schedule 2 to, the GPDO.*". I am unaware of any judgement that supersedes or sets aside that statement.
8. In my view, The Cabin building does not look like a dwelling. It is fitted out internally and furnished to a good domestic standard. However, its external appearance is that of a large shed, built with materials and finishes unsuitable and normally unfit for residential occupation. The building has several windows, their curtain netting giving some hint of domestic use. But the structure itself has more the look of a storage shed. The strong contrast with recently built housing at Birch Farm endorses the view that the appeal building does not look as if built for residential occupation. The test that "*no reasonable person would look at a particular structure used as a dwellinghouse and identify it as such*" is, in my view, met. The 12 July 2017, (ref. 3/17/1246/CLE), lawful development certificate describes "... building and its use as a single dwelling". It does not say it is a dwellinghouse. In my view, the building does not benefit from any Schedule 2, Part 1 permitted development rights in respect of dwellinghouses set out in the Order.

Curtilage

9. Note 3 to the 12 July 2017 certificate of lawfulness said it applied only to the extent of the matter specified in the first schedule to the land at The Cabin identified on the attached plan. The certificate said the decision related to location plan BF/01. However, plan BF/01 was not attached. A copy of that plan shows The Cabin building within a red lined area of land that scales at about 70m x 70m.
10. It was the Appellants' case that plan BF/01 showed the lawful curtilage to The Cabin. That was, in their view, confirmed by the 12 July 2017 certificate of lawfulness. They pointed to wording on page 1 of the certificate "*.. in respect of the land hatched*/coloured red on the plan attached to this certificate, ...*", which they asserted clearly included the curtilage land around The Cabin. But plan BF/01 was not attached to the certificate. The Council's view was that the red line did no more than indicate the application site. They said the 4 year rule applied only to the building and that whilst use of the land may have been identified in the application, the 10 year immunity rule would apply to the change of use of the land from its previous use to use as garden land or residential curtilage.
11. HHJ Hickinbottom in the case of *Newland v Secretary of State for Communities and Local Government and Waverley B.C. [2008] EWHC 3132 (Admin)*, said: "*In any event, for land ancillary to a dwelling house not to have the same four year time limit as the building itself would lead to very odd, if not impracticable, results: because it would be open to a planning authority to enforce against (e.g.) a garden ancillary to a dwelling house for six years after the dwelling house as a structure would be immune from enforcement procedure. Given the nature of land that is ancillary to a dwelling house, and the principles set out in Burdle, that cannot be the intention of the statutory provisions. I accept the submission of Mr Strachan that the change of use of land ancillary to a dwelling house can properly be considered as a part of the change of use affecting the dwelling house itself: and the Inspector correctly observed that, once the use of a building as a dwelling house becomes lawful under Section 171B(2) so does the use of land within the same planning unit.*"
12. However, in the case of *R (oao Gore) v SSCLG & Dartmoor NPA [2008] EWHC 3278 (Admin)*, Mr Justice Sullivan, (as he then was), said: "*While it may be relatively unusual for a building used as a dwelling not to have a residential curtilage, it is perfectly possible that such circumstances may arise, and one can readily understand why they arose in this particular case, where, according to the inspector in the 2006 decision letter, in or about 1999 a forestry building had begun to be used as a dwelling.*"
13. In the above extracts, *Newland* refers to the planning unit. *Gore* refers to "curtilage". There is a distinction between the planning unit and the curtilage of a building that stands within that planning unit. They could cover the same area. But the two are not synonymous. In the present instance, a determination of the extent of the planning unit does not assist the need to decide whether or not The Cabin has a residential curtilage. The curtilage of a building does not represent a use of the land for the purposes of planning legislation. But, as here, it is relevant to the consideration of permitted

development rights for The Cabin as the proposed extensions would, although only marginally, be built on land immediately outside the existing wall limits of The Cabin building.

14. The Council, in dealing with the application for a lawful development certificate accepted that The Cabin building had acquired a lawful residential use. But in responding to the present appeal, they said it had no residential curtilage, but sat tightly and immediately surrounded by what they considered to be agricultural land. If the Council were right on that point, the lawful use of the BF/01 plan red lined area might be have become a mixed residential and agricultural use. In my view, a determination of the lawfulness of the previous use to that now claimed by the Appellants is not crucial. Following *Gore*, that a building used as a dwelling might not have a residential curtilage, the Appellants' submissions that the BF/01 red lined area has a lawful residential use ancillary to the residential use of the Cabin building is based more upon assertion and expediency than upon supporting evidence.
15. The Appellants accepted that the certificate was not entirely clear. I agree. But I do not conclude that it certifies both the exclusive residential use of the building and also of land within the red line for use, (or ancillary to) use as a single dwelling house. The evidence of the type of use, its extent, continuity and the degree to which land surrounding The Cabin was part of a material change of use over the relevant 4 year period prior to the certificate application being made, was unclear. While *Newland* appeared to be dealing with a recognisable garden area and a defined planning unit, the situation here seems to me to be more akin to the example considered by Mr Justice Sullivan in *Gore*, where as here, a building was erected on what may have been abandoned equestrian centre land and where there appears to have been some ill-defined boundaries and no clear garden area or planning unit.
16. It is likely there would be comings and goings to access The Cabin building from the roadway. But its extent and position is unclear, nor whether that use amounted to a material change of use of the land surrounding The Cabin building.
17. On the evidence before me, I am not persuaded that any land immediately surrounding The Cabin building is curtilage land associated with its residential use. The benefits of the concessions contained in Schedule 2, Part 1, Class A to the Order are not available to building the proposed extensions to The Cabin.

FORMAL DECISION

18. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development in respect of the the construction of extensions to both flanks (east and west) and to the rear (south) elevation at The Cabin, Birch Farm, White Stubbs Lane, Broxbourne EN10 7QA was correct and that the appeal should fail. I exercise the powers transferred to me in section 195(3) of the 1990 Act as amended.

John Whalley

INSPECTOR



Appeal Decision

Site visit made on 21 January 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Appeal Ref: APP/J1915/W/19/3239431

Warren Cottage, Green Tye SG10 6JD

- 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 Paul Radley against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0154/FUL, dated 28 January 2019, was refused by notice dated 4 June 2019.
 - The development proposed is described as: 'erection of stable block on land previously used for agricultural purposes'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have assessed the proposal based on the description of development given on the Council's Decision Notice, rather than as stated on the application form. This is because it correctly references that a change of use of the land is proposed. In the interests of clarity, the description I have used is: 'Change of use from agricultural land, to equestrian. Erection of a stable block and a revised gate entrance'.
3. I have used the site address as given on the application form (without referring to an unclassified road that is unnamed on the form). I note here that the appeal site, as defined with a red line upon the submitted site location plan, does not contain Warren Cottage itself. Instead, the site sits in proximity to Warren Cottage and I have considered the appeal on this basis.

Main Issues

4. The main issues are:
 - Whether or not the proposal is inappropriate in the Green Belt; and
 - If the proposal is inappropriate, whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

5. The Council has not raised objections to the intended change of use of the land. Indeed, the private keeping of a single horse on the site would not, in itself, be anticipated to conflict with the purposes of the land's inclusion within the Green Belt nor lead to a loss of openness. My considerations here shall thus be centred upon the stable block element of the scheme.
6. The National Planning Policy Framework (February 2019) (the Framework) sets out that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless one of several exceptions apply. One of these exceptions is where appropriate facilities for outdoor recreation are proposed and these facilities would preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
7. I am satisfied that the proposed stable block would constitute an appropriate facility in connection with an intended use of the land for outdoor recreation purposes (an equestrian use). Thus, to determine whether or not the stable block would represent inappropriate development in the Green Belt, I shall consider its effect upon openness.
8. The appeal site is a rectangular shaped area of grassed land that is more or less flat in level. The site is bound to all its sides by post and rail fencing. An unclassified road, from which access to the site is gained, runs alongside its south-eastern edge. A narrow buffer of planting is in place along this south-eastern boundary, but this does not provide a solid buffer to views such that the site (including the intended location of the stable block) is visible from various publicly accessible vantage points.
9. The stable block would be a small building of single storey height and it would contain merely a single stable and an associated tack/store room. Nevertheless, it would have a standalone presence in a visible location and would introduce a building to a site that is currently clear of built development. The stable block would thus inevitably erode the Green Belt's openness.
10. The appellant has stated that the stable block would be mobile in the sense it would not be permanently sited in a specific location on the site. Nevertheless, whilst I must consider the scheme's merits based on the set of proposed plans that are before me, the stable block's effect upon the Green Belt's openness would not be altered to any material extent by any potential future periodic changes to its position within the appeal site.
11. For the above reasons and on the basis that the stable block would not preserve the Green Belt's openness, the proposal would be inappropriate development in the Green Belt. The proposal conflicts with Policy GBR1 of the East Herts District Plan (October 2018) (the District Plan) and with the Framework in so far as these policies affirm that inappropriate development is, by definition, harmful to the Green Belt.

Other considerations

12. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

13. Policy CFLR6 of the District Plan sets out various expected criteria with respect to proposals for equine development. I acknowledge that the proposal accords with many of these provisions. Indeed, there are no existing structures on the site (which could potentially be re-used) and the intended stable block would be of low-scale and simplistic design such that it would not be unduly visually intrusive within the rural landscape. The amenities of nearby residents would not be impacted upon by the proposal and it would not be anticipated to result in ecological harm. However, Policy CFLR6 makes it clear that proposals will only be permitted where they do not conflict with other policies within the District Plan. Indeed, the site is located within the Green Belt, such that, as set out under Policy GBR1, the scheme must be considered in line with the Framework's Green Belt provisions.
14. I note that reference has been made to two recent successful planning applications for equestrian facilities in the locality, one relating to a stable block and the other to a private ménage. Nevertheless, the full details of these schemes have not been provided and, in any event, I must consider the proposal before me upon its own individual merits with the development plan the starting point for decision making.
15. I accept that there would be anticipated to be some security, animal welfare and sustainability benefits associated with homing and stabling a horse in immediate proximity to its owner's home address. Indeed, daily vehicular trips to a separate location elsewhere would no longer be required. However, details of the current stabling arrangements have not been provided and it has not been clearly demonstrated that a suitable and readily accessible alternative location for homing/stabling a horse does not exist nearby. In this context, I apportion only limited weight to each of the scheme's security, animal welfare and sustainability benefits.
16. The full details of intended soft landscaping have not been provided. Nevertheless, I apportion limited weight to any potential biodiversity benefits that would be brought about by new planting. This is because the site is of fairly limited size and is already edged by planting to its south-eastern boundary.
17. The contributions set out in the previous two paragraphs would not outweigh the substantial harm identified to the Green Belt (including harm derived from loss of openness) so as to amount to the very special circumstances necessary to justify the proposal. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

18. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR



Appeal Decision

Site visit made on 21 January 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Appeal Ref: APP/J1915/W/19/3240107

248 Ware Road, Hertford SG13 7HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Hudson (Trustees of Mrs JM Hudson) against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0166/FUL, dated 25 January 2019, was refused by notice dated 11 October 2019.
 - The development proposed is erection of 1no. four bed dwelling, 1no. two/three bed bungalow, following demolition of existing garages, closure of one access and creation of new vehicular access.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect upon the character and appearance of the area.

Reasons

3. The appeal site contains a large detached dwelling (the existing dwelling) that is served by a considerably sized garden area that contains various outbuildings. The site is served by 2 separate access points on to Ware Road. The existing dwelling makes up part of a row of frontage development that addresses Ware Road and that is generally tightly spaced. Nevertheless, generous separation distances commonly exist between Ware Road properties and neighbouring dwellings to the rear, which contributes to a somewhat loose and spacious residential character and appearance being in existence in the local area. I also note that properties are of varied type and appearance and tend to be setback relatively short distances from the highway at the front of their plots.
4. The proposal involves the construction of a 2-storey dwelling (the proposed dwelling) to the side of the existing dwelling. This would utilise a newly repositioned access point (the access) from Ware Road and would respect the form and height of neighbouring properties in the streetscene. The proposed dwelling's front and rear building lines would loosely follow those exhibited by other properties in the frontage and a degree of separation would be maintained to the neighbouring property to the east.
5. I note that the Council has raised specific concern as regards an intended gabled element to the rear of the proposed dwelling, which would incorporate a

small area of flat-roof. However, particularly when noting the varied style of properties in the locality and the discreet location of the gabled element in question, I am satisfied that the proposed dwelling's design would suitably respect the character and appearance of the area.

6. However, the access is intended to also serve a new bungalow (the bungalow) that would be located to the rear of the site. Being set away from the site's highway frontage, the introduction of a new residential plot in this location would be at odds with the typical layout of other plots in the locality. Furthermore, the existing dwelling's rear garden area, whilst currently containing of several ancillary outbuildings, can be observed to provide important breathing space between surrounding dwellings which in some cases are generously sized.
7. The bungalow's visibility from publicly accessible locations would be limited. This is particularly when noting that planting is proposed to be retained/added to the edges of the site. However, the bungalow would cover a large footprint area and have a physical presence that would influence how the area would be read and experienced, most particularly by local occupiers. The local area's spaciousness would be compromised by the intended introduction of the bungalow, which would appear as a discordant addition due to its siting and size.
8. In the context of the above findings, and notwithstanding the large extent of the particular garden area in question, I do not consider that the proposal would make the best possible use of the land that is available. Indeed, if the proposed dwelling were brought forward in isolation, it is not the case that the land to the rear would serve no clear purpose or function. It would instead serve as residential garden, as it does currently.
9. For the above reasons, the proposal would cause harm to the character and appearance of the area in conflict with Policy DES4 of the East Herts District Plan (October 2018) (the District Plan) in so far as this policy requires that development proposals must be of a high standard of design and layout to reflect and promote local distinctiveness.
10. Policy HOU11 of the District Plan appears geared towards proposals for householder development. Whilst reference is made in the policy's wording to works within residential curtilages, it is my interpretation that the policy is not intended to guide proposals that are centred upon the provision of new units of accommodation within a residential curtilage. Thus, Policy HOU11 is of limited relevance to my considerations here.

Other Matters

11. I have noted concerns raised by interested parties with respect to matters including highway safety, the effect upon neighbouring living conditions and the effect upon existing planting. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.
12. The proposal would deliver 2 additional housing units and the National Planning Policy Framework (February 2019) reaffirms the Government's objective of significantly boosting the supply of homes and states that decisions should promote an effective use of land. However, the contribution of 2 dwellings

would be modest and would not outweigh the significant harm I have identified to the character and appearance of the area. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

13. For the reasons set out above, the appeal is dismissed.

Andrew Smith

INSPECTOR



Appeal Decision

Site visit made on 22 January 2020

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2nd March 2020

Appeal Ref: APP/J1915/W/19/3238700

Holbrooks Farm, Benington Road, Aston, Stevenage SG2 7EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John West against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0266/FUL, dated 6 February 2019, was refused by notice dated 14 June 2019.
 - The development proposed is demolition of 2no large agricultural barns, relocation of covered horse exerciser and the erection of new stables, garages, out-buildings and a residential unit.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - ii) the effect on the openness of the Green Belt;
 - iii) the effect on the character and appearance of the area;
 - iv) whether the site is in an appropriate location for housing development, with particular regard to access to facilities; and
 - v) whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal?

Reasons

Whether inappropriate development in the Green Belt

3. The appeal relates to an existing stable yard. It is located in the open countryside adjacent to a small group of buildings. These include traditional barns that have ostensibly been converted into dwellings. The site itself contains a stable block, barn and horse exerciser. The development would result in the demolition and redevelopment of the stable and the removal of the

- horse exerciser. These would be replaced by a new dwelling, outbuildings for use as garages/workshop or storage and a replacement stable block.
4. Policy GBR1 of the East Herts District Plan (EHDP)(2018) states that planning applications in the Green Belt will be considered in line with the provisions of the Framework. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt should be considered as inappropriate development unless it meets one of a number of exceptions. One of these is if the development is the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces.
 5. The proposed dwelling would clearly not be in the same use as any of the buildings that it would partially replace. Whilst prior approval is in place for the conversion of one of the barns to a dwelling, this building was clearly not in residential use at the time of my visit. The existence of the prior approval does not mean that the building is not still in 'agricultural' use at this time. Irrespective of the size of the dwelling, it would fall outside the exception in paragraph 145. This does not mean the potential fallback position is not relevant, but it is something which should be more properly considered in the context of other considerations. I shall return to this matter below.
 6. The wording of paragraph 145 also suggests that in a mixed-use proposal, the individual replacement elements should be no larger than what they are seeking to replace. The appellant argues that the dwelling would replace the barn with prior approval. The submitted plans suggest this has a footprint of around 170 square metres (sqm) and a volume of 743 cubic metres (m³). The dwelling would have a footprint of around 140 sqm and a volume of around 930 m³. Therefore, while the footprint would be smaller, the overall volume of the building would be greater. Irrespective of the land use issue, in my view this additional volume would be sufficient to conclude that the building would be materially larger than the one that it seeks to replace. It would therefore fall outside the exception in any event. I do not consider paragraph 145 allows reductions in the sizes of buildings associated with other uses to justify larger ones in different uses.
 7. Turning to the garage/storage areas, the Council's officer report refers to the replacement of an existing storage barn that is currently being used for similar purposes to what is being proposed. It is not entirely clear whether this reference is to the same barn that has prior approval for the dwelling, and whether that is the established use of that barn, or that identified as 'barn 3' on the plans. If it is the former, then clearly it cannot be replaced by both the new dwelling and the 'garage/storage' area as this would in effect be double counting. If it is the latter, then the plans suggest this barn has a footprint of around 16 sqm and volume of 59 m³. The buildings identified for similar uses on the plans would have a footprint of around 100 sqm, with an additional storage loft of around 91 sqm. The plans do not break down the volume of these uses. However, it would be reasonable to assume that this would amount to a larger overall volume than is currently within barn 3.
 8. Notwithstanding the Council's conclusions on this matter, the evidence before me does not clearly demonstrate that this element of the proposal is capable of meeting the requirements of paragraph 145, particularly in terms of whether

the replacement building would be materially larger than what it is seeking to replace.

9. Although I have no concern over the stable element of the proposal, when taken as a whole, the evidence does not lead me to conclude that the development would meet the requirements of paragraph 145 of the Framework. As such, it would constitute inappropriate development in the Green Belt. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I shall return to this matter below.

Effect on openness

10. Paragraph 143 of the Framework states that the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of the Green Belt are its openness and permanence. The site already contains built development in the form of the existing barns, stable and horse exerciser. The areas between the buildings are also already hardstanding. At the time of my visit, a large horsebox was parked in the area. Considering the use of the site, it would be reasonable to assume that vehicles of this type, and other vehicles associated with the use, would be parked within the site at one time or another.
11. Notwithstanding my conclusions on the individual elements of the proposal, the overall footprint and volume of buildings on the site would be reduced from what is there at present. The configuration of the site would change, with the currently open area between the existing barn and horse exerciser being filled. The non-residential elements would also be reconfigured so that a large proportion of the built form would be further west of its current location. This would narrow the existing yard. In both cases, development would be introduced where none currently exists. Nevertheless, this would also open up parts of the site which are currently built on.
12. The dwelling would be in a more prominent position than what is currently in place. However, the removal of the horse exerciser would provide some mitigation for this in terms of the openness of the site. The roofs of other buildings would be likely to be seen from outside the site. However, the rooflines of the existing buildings can already be seen and their relocation or difference in height within the site would be unlikely to be viewed as an overt reduction in openness. All of the new structures would be within the existing footprint of the site and would not encroach into adjacent fields. The presence of vehicles on different parts of the site to where they currently park would also not have a detrimental impact on openness.
13. Therefore, while there would be some significant change to the outward appearance of the site, I am not persuaded that this would amount to harm in terms of the visual openness of the Green Belt. Therefore, in both visual and spatial terms, I find the effect on openness would be largely neutral and would thus not weigh against the development.

Character and appearance

14. The effect on the openness of the Green Belt is a different consideration to the effect of the development on the character and appearance of the area. The

replacement of the barn and stable with buildings of a similar design would have a largely neutral impact on the outward appearance of the site. While they would be different in scale, orientation and siting, their design would largely reflect that of the existing buildings and would not be unsympathetic to what is already in place. The equestrian/agricultural character of the site would be undermined to an extent by the use of one building for the storage of domestic vehicles. This would be obvious to those living in the existing dwellings and any users/visitors to the stable. However, only the roof would be likely to be visible from outside the site. On its own, this would be unlikely to result in unacceptable harm.

15. The dwelling would be located toward the southern extent of the site and be sited perpendicular to the existing barn. It would take up the space between the barn's current location and the horse exerciser. It would therefore be visually well separated from the existing dwellings, which are clustered together in the traditional farm buildings adjacent to Benington Road. The design of the dwelling would be similar to the other elements of the development insofar as it would be a dual pitched roof building using similar materials.
16. Nevertheless, the substantial area of glazing on the southern and western elevations would clearly set the building apart from the more functional buildings on the site. The wrap around balcony would also ensure the building appeared residential in nature. The likely increase in domestic paraphernalia associated with the dwelling including parking areas and any formal amenity space, would ensure that this part of the site no longer appeared to be part of the prevailing equestrian or agricultural use of the remainder of the site.
17. The site is extensively screened by existing mature landscaping, topography and intervening buildings. However, the dwelling would be clearly seen from the public right of way that runs to the west of the site. Although these are generally medium distance views, the change in the character and appearance of the site would be discernible from this location. The discordant nature of this element of the scheme would also be readily apparent from the private views of existing dwellings and users of the stables.
18. There are already residential uses on the wider site. However, there is a clear difference between the siting, character and appearance of these uses and the stable yard. The site as a whole appears as a farmstead, with a tight cluster of buildings to the north and the non-residential and equestrian uses to the south and east. The site therefore complements the predominantly rural and agricultural character of the wide area. Although the development would not extend into the fields adjacent to the site, the introduction of a dwelling at its southern extent would appear as an overt domestication of this part of the site and a harmful change in the overall character.
19. In coming to this conclusion, I have had regard to the fact the site is not within a designated landscape area and the level of screening that would exist. Nevertheless, even with additional landscaping to the west, the residential element of the development would still erode the existing character and appearance of the site to an unacceptable degree. Accordingly, there would be conflict with EHDP policies DES2 and DES4 which seek, amongst other things, that development is of a high standard of design which conserves distinctive features.

20. The decision notice refers to Policy DES3. This relates to the landscape features and biodiversity. There is no indication the development would result in harm in this respect and thus there would be no conflict with this particular policy. The second reason for refusal also refers to Policy GBR1. This relates to Green Belt only and is thus not directly relevant to concerns over character and appearance.

Location

21. The site is not located within a defined settlement. The nearest village to the site is Aston. This is identified as a Group 2 Village by EHDP Policy VILL2. In locations without a Neighbourhood Plan, this policy allows only for development within the main built-up area. The development would not comply with this. While the site is adjacent to existing residential uses, these do not form a coherent settlement; rather they would be considered to be sporadically located dwellings in the countryside.
22. Paragraph 78 of the Framework seeks to promote sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities. Paragraph 103 also states that the planning system should manage patterns of growth to promote opportunities for walking, cycling and public transportation. The site is poorly related to existing facilities. There would, therefore, be a need for future occupiers to travel for day to day services, facilities and employment. Aston itself is around a 10-15-minute walk from the site. There is a bus stop that is a similar distance. However, pedestrian routes from the site are along narrow, unlit and unpaved country lanes. The route into Aston is also up a steep hill. These factors are likely to discourage walking, cycling or using public transport.
23. While the Framework recognises that opportunities to maximise sustainable transport will vary from urban to rural areas, the site is not in a location to where the use of walking, cycling or public transport to access services and facilities to meet daily needs could be maximised. This, and the scale of development, would also limit any meaningful enhancement or maintenance of the vitality of the surrounding rural communities.
24. The development would not therefore be in a suitable location site for housing, having regard to the accessibility of local services and facilities. Accordingly, there would be conflict with EHDP policies DPS2 and TRA1 which, amongst other things, seek to promote sustainable patterns of development and ensure a range of sustainable transport options are available to occupants. In addition, the development would not form a limited infill development identified in an adopted Neighbourhood Plan. As such, it would conflict with EHDP Policy VILL2. There would also be conflict with paragraphs 78 and 103 of the Framework.

Other Considerations

25. The development would provide one additional dwelling to the housing supply. However, I have not been provided with any evidence to suggest that the Council is unable to demonstrate an adequate supply of housing. Thus, any social or economic benefits associated with the dwelling would not be significant. No specific needs for this dwelling have been identified. I therefore give only moderate weight to this issue.

26. The development as a whole may provide some private benefits to the appellant, particularly in terms of the alterations to the stable and storage areas. While the development would be designed to meet their particular needs, I attach only moderate weight to this factor. There is no clear evidence to suggest the existing buildings are not fit for purpose or that there is a particular need for additional storage space. Moreover, there is nothing to suggest similar benefits could not be achieved by less harmful means. The existing buildings do not cause any harm to the character or appearance of the area. As such, the development would provide no benefits in this regard.
27. I acknowledge that the development would not have a detrimental impact on openness and would reduce the amount of built development in terms of overall footprint and volume. Any benefits in terms of openness of the Green Belt would not however be significant. In addition, the development would still constitute inappropriate development in the Green Belt which is by definition harmful. I therefore give only limited weight to this factor in the overall balance.
28. Much of the appellant's argument relates to the prior approval that exists for the conversion of a barn to a dwelling. The prior approval is not time expired. Correspondence between the appellant and Council also suggests an intent to implement this. There is no strong evidence to suggest therefore that the approval would not be implemented if the appeal is dismissed. It therefore forms a realistic fallback position which is material to my decision. However, I have already concluded that the existence of a fallback position does not mean that the proposed dwelling would fall into any of the Green Belt exceptions. The evidence before me also raises some concerns over other elements of the development in this regard. I am not persuaded therefore that the fallback adds any weight in favour of the proposal in Green Belt terms.
29. The 'fallback' barn is also to the southern end of the site. It can be viewed from the same or similar locations as the development. I do not have full details of how the building would appear if the prior approval were implemented. Nevertheless, it is reasonable to assume that it would contain fenestration in the currently open elevation of the building which would alter its appearance. As with the development, this would likely result in a degree of domestication of this part of the site. The horse exerciser would screen this to an extent.
30. However, the dwelling before me would be located nearer to the western boundary of the site, as would any associated paraphernalia and amenity space. With or without the horse exerciser in place, it is very likely that the dwelling before me would be more prominent than the barn when viewed from the public right of way and any other views that are available. The change in orientation and the increase in length of the building also means that it would be a more visually intrusive building than the existing barn. From the evidence before me, and my own observations, I find it likely that the fallback position would be less harmful than the development. The fallback does not therefore add any weight in favour of the development in this regard.
31. When considering prior approval applications under Class Q of the General Permitted Development Order (GPDO), the Council are not able to take any account of the location of the agricultural building or whether it would be in a sustainable location. The prior approval does not mean therefore that the site

is in a sustainable location in principle. In assessing the appeal against the policies of the development plan and the Framework, the site is not in a sustainable location.

32. However, I recognise that the harm caused by the development would be no greater than the fallback in terms of trips generated from this location. The fallback position would also have much the same impact on the overall spatial strategy as the development. The development would therefore result in no additional harm over and above that resulting from the prior approval. The fallback position would therefore add some weight in favour of the development in this regard. There is no evidence to suggest there would be any other material difference between the effects of the development and fallback position or any other factor of importance.

Other Matters

33. Two of the converted barns adjacent to the road are Grade II Listed Buildings. I have a statutory duty to have special regard to the desirability of preserving such buildings and their settings. The Council raised no concerns over the impact on these buildings. I saw nothing that would lead me to a different conclusion. The development nearest to the listed buildings would complement the outward appearance of the farmstead. The dwelling would be at the opposite end of the site and would not result in any overt harm to the appreciation of the listed buildings. The development would therefore preserve their special character. A lack of harm in this respect is however a neutral factor in the planning balance and weighs neither for nor against the development.

Planning Balance & Conclusion

34. I have found that the proposed development would constitute inappropriate development in the Green Belt. Inappropriate development is by definition harmful. Paragraph 143 of the Framework requires that substantial weight be attributed to the harm to the Green Belt. While I do not consider there would be any particular impact on openness, this does not alter or reduce the harm caused as a result of being inappropriate development. I have also found conflict with the development plan in relation to the character and appearance of the area and the location of development.
35. I have had regard to the benefits that would be derived from the development for the appellants and the implications of the potential fallback position on matters of Green Belt, character and appearance and location. Nevertheless, I do not consider that the harm that would be caused to the Green Belt, or the other harm identified, would be clearly outweighed by other considerations as required by paragraph 144 of the Framework. The granting of permission would therefore conflict with the provisions of EHDP Policy GBR1. There are no material considerations that would lead me to a decision other than in accordance with the development plan in this case.

S J Lee

INSPECTOR



Appeal Decision

Site visit made on 10 March 2020

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

Appeal Ref: APP/J1915/W/19/3243398

**Enclosed Yard, Home Farm Industrial Estate, Hunsdon Road
Stanstead Abbots SG12 8LA**

- 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 Simpson on behalf of Complete HGV Solutions Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0680/FUL, dated 11 April 2019, was refused by notice dated 20 June 2019.
 - The development proposed is erection of workshop building for the Sui Generis use for the repair of boxes on the back of heavy goods vehicles, following demolition of existing workshop building.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are: i) whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and the relevant development plan policies; ii) the effect on the character and appearance of the area and; iii) if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

3. The appeal site (the site) is located within the Green Belt, around 1km outside Stanstead Abbots. Access is gained from the B180 Hunsdon Road, which also serves the wider Home Farm Industrial Estate. The site is located at a slightly higher level than the main road and is enclosed by a steel palisade fence, and on the roadside boundary there is mounding and high landscaping. Within the site there are 2 workshop buildings. The first has a curved steel roof and is known as 'the bomb shelter' (the existing workshop) whilst the other larger building is more recently erected and has grey steel sheet walls and what appears to be a fabric roof (the temporary building). There is also what appears to be a recently constructed flat roof extension to the existing workshop, although this is not referred to in the appellant's plans.

4. It is not in dispute that the temporary building is unauthorised, having been the subject of an application to secure planning permission, refused in January 2018. That decision was subject to an appeal¹, which was dismissed.
5. The Home Farm site was subject to a Certificate of Lawful Use or Development, essentially establishing that a storage use had been undertaken for a period in excess of 10 years, to height of storage not exceeding 3m. The appellants maintain that the Lawful Development Certificate does not relate to the appeal site but only the part of the Industrial Estate comprising the former farm buildings.
6. Under the proposal, both the existing workshop and the temporary building would be taken down and replaced by a single building, measuring 22m in length, 15m width, and with a maximum height of 5m. The building would be located on an existing concrete apron and would be sunk below the level of the existing concrete hardstanding by 2m so that its height above ground be approximately 3m at its maximum, not exceeding that of the existing workshop.

Whether Inappropriate Development

7. The site is located within the Green Belt. Paragraph 145 of the Framework sets out the exceptions under which a new building should be regarded as not comprising inappropriate development. Policy GBR1 of the East Herts District Plan 2018 (the District Plan) does not repeat the Framework exceptions but is clear that in all cases where development is proposed in the Green Belt, regard must be had to national planning policies.
8. The Framework states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of green belts are their openness and their permanence.
9. The main thrust of the appellants' case is that the site is previously developed land and therefore the proposal should be considered as an exception to inappropriate development under paragraph 145 (g). Although the proposal would replace the existing workshop, and could potentially be considered under the exception from inappropriate development under paragraph 145 (d) it is contended that it is incorrect to consider it to be materially larger than the existing workshop, due to the manner in which the proposal would be sunk into the site. The appellants therefore take the view that the proposal should be considered only against the test of impact on openness imposed in paragraph 145 (g) in the determination of inappropriateness. I agree with that approach.
10. In Green Belt terms the concept of openness encompasses both the visual and spatial aspects of development. In introducing further built development at the appeal site, even allowing for the removal of the existing workshop, the proposal would have a greater impact on the openness of the Green Belt than the existing development in spatial terms. The existing workshop has floor area of approximately 100m², and the proposed building would have a floor area of approximately 330m² giving a net floorspace increase of 230m². Whilst the proposal seeks to limit the visual impact of the proposal by setting it into the site, and screening which currently exists and that proposed, it would not diminish the proposal's spatial effect on openness.

¹ Appeal ref. APP/J1915/W/18/3207552 dated 2 April 2019

11. Although the proposal includes measures which seek to limit the effect on openness, I conclude that the proposal would nevertheless constitute inappropriate development, which the Framework establishes should not be approved except in very special circumstances, and would also be in conflict with Policy GBR1 of the District Plan which seeks to protect the openness of the Green Belt in line with the provisions of the Framework.

Character and appearance

12. The proposed building would be faced in steel sheeting, with a low mono pitched roof and three sliding door openings to the front elevation. The roof and walls would be powder coated forest green². The appellants suggest that the proposed building would have an appearance similar to that of an agricultural building, although it could equally be described as having that of an industrial unit. However, the proposal would have a low profile when compared with the existing workshop and would be well screened from views from the B180 Hunsdon Road close to the site. It would also have limited effect on the character and appearance of the brick buildings forming the rest of the Home Farm Industrial Estate.
13. As the previous Inspector indicated, the use of landscaping and building colour to seek to hide a building is not a good reason to allow inherently unacceptable development. The proposal would be less obtrusive than the temporary building and the retention of the proposed landscaping for the lifetime of the development could be secured via condition. However, there would be some visual impact in longer views, at least until the perimeter landscaping matured, which could take many years.
14. The proposed removal of the existing workshop would also provide some mitigation of the overall impact of the proposed development on the surrounding countryside. However, the removal of the building would not of itself be of significant benefit to the visual appearance of the area due to its location within the site and existing screening.
15. Bringing the above points together, I conclude that the proposal would result in some limited harm to the character of the site and surrounding area, and would therefore be in conflict with Policy DES4 of the District Plan, which requires amongst other things that development must be of a high standard of design and reflect and promote local distinctiveness and make the best use of land by respecting or improving the character of the site and surrounding area.

Other Considerations

16. The appellants' business employs 6 people based in both the workshop on the site and office accommodation within Unit 5 of the Industrial Estate. The existing workshop building allows work to be undertaken on 2 vehicles at a time, and currently similar use is made of the temporary building. This represents a significant level of economic activity in a rural area, and the appellant says that only local people are employed. The Framework recognises that in order to meet the needs of rural business it may be necessary to look beyond existing settlements, but that also development must be sensitive to its surroundings.

² I assume that the sliding doors would also be green in colour.

17. The existing workshop building is nearing the end of its useful life and the appellants say that the proposal is required to enable the business to operate from the site in the long term. I have no reason to disagree with this argument. The previous Inspector made the observation that the temporary building may not have been the only option to cater for the expansion of the business and what is now proposed may represent an improvement on the previous proposal in terms of visual appearance. However, no evidence has been presented to me which establishes that the business could not find alternative premises which could accommodate the business in a location which would not give rise to conflict with planning policy.
18. The proposal would not cause harm to the living conditions of the residents of Home Farm Cottages, due to the intervening distance and presence of the Industrial Estate, nor would any issues of highway safety occur as the site is well served by the existing access and availability of off street parking.

Planning Balance and Conclusion

19. The Framework sets out that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness or any other harm resulting from the proposal, is clearly outweighed by other considerations.
20. In the current case the considerations advanced in support of the scheme carry moderate weight in its favour. There would be economic benefits arising out of the proposed development in terms of securing employment in a rural area, to which I attach moderate weight. However, these would not clearly outweigh its Green Belt harm, a matter which attracts substantial weight. For these reasons, it has not been demonstrated that very special circumstances exist which would justify the proposed development.
21. The absence of harm to the living conditions of local residents or highway safety are neutral factors in the planning balance.
22. In addition, I have found conflict with the Framework and the aims of Policy GBR1 of the District which taken together, and amongst other matters seek to protect the openness and permanence of the Green Belt. There is also conflict with Policy DES4 of the District Plan due to the limited effects which would be caused to the character of the site and surrounding area.
23. No material considerations justify a decision other than in accordance with the development plan, with which the proposal would conflict. Accordingly, for the reasons set out above, and the appeal is dismissed.

Tim Wheeler

INSPECTOR



Appeal Decision

Site visit made on 21 January 2020

by **Andrew Smith BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Appeal Ref: APP/J1915/W/19/3240095

Edgewood Farm, Broxbourne Common, Broxbourne EN10 7QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by David Felton against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0693/VAR, dated 28 March 2019, was refused by notice dated 4 June 2019.
 - The application sought planning permission for replacement dwelling house with basement without complying with a condition attached to planning permission Ref 3/11/1170/FP, dated 12 October 2011.
 - The condition in dispute is No 9 which states that: *Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development Order), 1995 the provision within the curtilage of the dwelling of any building, enclosure or swimming pool as described in Schedule 2, Part 1, Class E of the Order shall not be undertaken without the prior written permission of the Local Planning Authority.*
 - The reason given for the condition is: *To ensure the Local Planning Authority retains control over any future development as specified in the condition in the interests of amenity and in accordance with policy ENV9 of the East Herts Local Plan Second Review April 2007.*
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The disputed condition refers to specific provisions of the Town and Country Planning (General Permitted Development) Order 1995, which was revoked when the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) was made. However, the GPDO is similar to the previous Order in terms of the development that is permitted within the curtilage of a dwellinghouse. Therefore, no substantive changes have been made to the provisions of Schedule 2, Part 1, Class E which are directly relevant to the determination of this appeal.
3. It was apparent upon inspection, that the original dwelling (for which planning permission¹ to replace was granted in 2011) was still in-situ at the site. This is despite a planning condition being attached to the 2011 permission that explicitly requires that it be removed within 3 months dated from the

¹ 3/11/1170/FP

replacement dwelling's first occupation. I have noted from the site's planning history that attempts have been made outside of this appeal to seek to regularise the building's continued presence on-site. Nevertheless, I shall proceed to consider the merits of the proposal before me in the context of the terms upon which planning permission for the replacement dwelling was granted.

Main Issue

4. The main issue is whether or not the disputed condition is reasonable and necessary in the interests of protecting the Green Belt and its openness.

Reasons

5. The appeal site is in the Green Belt and contains a replacement dwelling. The site is made up of the dwelling's generously sized curtilage, as defined with a red line on the overall site plan². It comprises part of a wider area of land (the wider site) that also falls under the appellant's control and that contains various paddocked areas, sheds and facilities that I understand relate to an existing horse breeding business. The appeal site's garden area is, for much of its extent, clear of built development. An exception to this is a tennis court with fenced surrounds, which was granted planning permission³ separately in 2016.
6. As set out in the National Planning Policy Framework (February 2019) (the Framework), conditions restricting the future use of permitted development rights should only be used where there is clear justification to do so. Planning Practice Guidance (the Guidance) confirms that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. Indeed, the Government has already placed limitations and restrictions upon permitted buildings incidental to the enjoyment of a dwellinghouse, as set out under Class E of the GPDO.
7. In this case the removal of the disputed condition would allow for buildings to be constructed up to a limit, in ground coverage terms, of 50% of the replacement dwelling's curtilage (when factoring out the replacement dwelling's own ground area). Considering the large size of the curtilage area in question, it is apparent that the requested removal of the disputed condition would offer a range of opportunities for single-storey buildings, as well as enclosures and swimming pools, to be constructed across various areas of the appeal site.
8. As set out in the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence, and these do not alter because of the presence of existing developments in a particular area.
9. Additional development incidental to the enjoyment of the replacement dwelling, in accordance with the limitations set out in Class E of the GPDO, would not be anticipated to have a far-reaching visual impact, particularly when noting the various planting and boundary treatment that is already in place to the perimeters of the appeal site and wider site. However, it is important to note that openness in terms of the Green Belt has a spatial aspect

² 11-1067-101 D approved under planning permission 3/11/1170/FP

³ 3/16/1511/HH

as well as a visual aspect. If built up to (or close to) the 50% ground coverage threshold referenced above, the cumulative volume of additional buildings would inevitably lead to a distinct loss of openness in spatial terms.

10. It is apparent from the site's recent planning history that planning permission has, on two occasions, been sought for a detached gym at the site. Whilst these applications were ultimately unsuccessful, this option to apply separately for development remains open to the appellant whereby each case would be considered on its own individual merits. Indeed, it is apparent that the existing tennis court was granted planning permission on this basis. It is likely that, with respect to any intended new buildings, very special circumstances would need to exist and be clearly demonstrated on a case-by-case basis. However, noting the site's eminent capacity to accommodate significant additional built form and the sensitivities of its Green Belt location, this appears to me to represent a reasonable and sensible arrangement.
11. The appellant has referred to other sites where permitted development rights have not been removed. However, the full details of these other sites have not been provided and it is unclear from the evidence before me whether any of them are comparable to the appeal site in terms of their size and composition. In any event, each case must be considered on its own individual merits. I also note here that a blanket removal of rights has not taken place, instead the restrictions imposed by the disputed condition fall under a specific class of the GPDO (as do those imposed under Condition 8 of the same 2011 planning permission) and relate purely to the appeal site.
12. For the above reasons, I conclude that there is clear justification to restrict the future use of permitted development rights falling under Class E of the GPDO and that the disputed condition is reasonable and necessary in the interests of protecting the Green Belt and its openness. The proposal conflicts with Policy GBR1 of the East Herts District Plan (October 2018) and with the Framework in so far as these policies recognise that openness is an essential characteristic of Green Belts.

Other Matters

13. I acknowledge that the site is not located within a high-risk flood zone, does not make up part of a Site of Special Scientific Interest and is not thought to be contaminated. I am also unaware of any objections from nearby residents and am satisfied that the living conditions of existing occupiers in the locality would not be adversely affected by the proposal. However, these circumstances do not alter my findings with respect to the main issue in this appeal.
14. I note that reference has been made in a supporting document to several appeal decisions on sites elsewhere where the reasonableness and necessity of conditions withdrawing the future use of permitted development were under consideration. However, all of the decisions referenced pertain to other areas of the country, some relate to sites not in Green Belt locations and none of them are particularly recent such that they were not determined in the context of the most recent and up-to-date versions of the Framework and the Guidance. They are thus of limited relevance to my considerations here. In any event, I have determined the appeal in accordance with the specific site circumstances to hand.

Conclusion

15. For the above reasons, the appeal is dismissed and the disputed condition is retained in its current form.

Andrew Smith

INSPECTOR



Appeal Decision

Inquiry Held on 12 – 15 & 29 November 2019, 9 & 10 December 2019

Site visit made on 11 December 2019

by C Sherratt DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2020

Appeal Ref: APP/J1915/W/19/3234671

Land off Chapel Lane, Letty Green, Little Hadham, Hertfordshire SG11 2AB

- 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 Timothy Mahoney and Traveller Group against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0893/FUL, dated 29 April 2019, was refused by notice dated 23 July 2019.
 - The development proposed is change of use of land to 10 pitches accommodating the siting of 10 mobiles homes and stationing of 10 touring caravans and 10 utility buildings. Formation of access road and hardstandings.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of land to 10 pitches accommodating the siting of 10 mobiles homes and stationing of 10 touring caravans and 10 utility buildings; and Formation of access road and hardstandings on Land off Chapel Lane, Letty Green, Little Hadham, Hertfordshire in accordance with the terms of the application, Ref 3/19/0893/FUL, dated 29 April 2019, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

Application for costs

2. At the Inquiry an application for costs was made by Mr Mahoney against the Residents of Little Hadham, a Rule 6 party. This application is the subject of a separate Decision.
3. An application for costs was also made by The Residents of Little Hadham against Mr Mahoney and Traveller Group. This application is the subject of a separate Decision.

Procedural Matters

4. Various alternative access options were before me at the outset of the Inquiry. During the Inquiry, the appellant confirmed that the access as constructed was the one to be considered as per revised drawings TWG/1r1 to TWG/4r1. I have determined the appeal on this basis.

Main Issues

5. The main issues are:

- (a) Whether the site provides a suitable location for a gypsy and traveller site in relation to accessibility to services and facilities;
- (b) The effect of the proposed development on the character and appearance of the area and surrounding landscape;
- (c) The effect of the development on highway safety;

and, should I find conflict with the development plan in respect of any of these issues, whether other considerations would indicate that planning permission should be granted. Other considerations include:

- (d) The need for gypsy and traveller sites and whether a 5-year supply of sites exists;
- (e) The need for accommodation for the current occupiers and whether suitable alternatives are available;
- (f) Whether the intended occupiers meet the definition of a gypsy and traveller for planning purposes; and
- (g) Any personal circumstances relevant to those occupiers.

Policy Framework

6. The East Herts District Plan 2018 was adopted in October 2018. The proposed development is for a gypsy and traveller site. Works have been carried out and the site is already occupied. The reason for refusal specifically relates to Policy HOU9 and HOU10 of the plan. These policies seek to provide a framework for the assessment of any applications for gypsy and traveller sites that may come forward on non-allocated, windfall sites.
7. The appellant was clear at the Inquiry that the proposed site and pitches therein are intended for occupation by those meeting the definition of gypsies and travellers as set out Planning Policy for Travellers (PPTS). On this basis, Policy HOU9 is therefore the relevant policy against which to assess the development although in reality, the policy requirements of both HOU9 and HOU10 are the same irrespective of whether the definition is met.
8. The starting point is to consider if the site is suitable for a gypsy and traveller site, having regard to relevant policies in the development plan. Policy HOU9 contains a number of criteria that planning applications for non-allocated sites should satisfy. Of particular relevance to this appeal are whether (a) the site is in a sustainable location in terms of accessibility to existing local services; (b) the site is suitable in terms of vehicular access to the highway, ... road safety and servicing arrangements and has access to essential services such as water supply, sewerage, drainage and waste disposal; and that (g) proposals ensure that the occupation and use of the site would not cause undue harm to the visual amenity and character of the area and should be capable of being assimilated into the surrounding landscape without significant adverse effect.
9. Policy GBR2 concerns the "Rural Area beyond the Green Belt", within which the appeal site sits. It permits certain types of development, including accommodation for gypsies and travellers in accordance with Policy HOU9 (or

HOU10), provided that they are compatible with the character and appearance of the rural area.

10. An existing need for sites is not a pre-requisite of Policy HOU9 or HOU10; the site is either suitable or not, having regard to the criteria set out. It would only be necessary to consider other considerations, including the personal circumstances of the individuals for whom the pitches are intended, if I were to find conflict with the development plan as a matter of principle and other considerations needed to be balanced against that conflict.

Reasons

11. Policy GBR2 accepts that gypsy and traveller sites can be accommodated in the rural area beyond the Green Belt. This is consistent with Planning Policy for Traveller Sites (PPTS) issued by the Government which does not seek to prevent gypsy and traveller sites from being in the countryside but rather that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing any undue pressure on the local infrastructure. The main issues must therefore be considered in this context.

Sustainable Location

12. Policy HOU9 (a) is confined to the consideration of a sustainable location in terms of accessibility to existing local services. Policy TRA1 'Sustainable Transport I' similarly requires that development proposals should, amongst other criteria, primarily be located in places which enable sustainable journeys to be made to key services and facilities to help aid carbon emission reduction.
13. The Council's evidence gives the distances to the hamlet of Westland Green as 200m as the crow flies or 460m by road and 1000m to the village boundary of Hadham Ford. Westland Green contains no facilities. Hadham Ford has limited facilities comprising a part-time post office, part-time Doctor's surgery and a Public House.
14. The nearest Primary School is in Little Hadham some 2.57km away and there is a shop, post office and bakery at Standon about 3.52 km away from the appeal site. There is a convenience store in Much Hadham that is 4.03 km away and a Tesco Superstore at Bishops Stortford some 5.95 km away.
15. A bus operates along Chapel Lane with limited services, operating a single service on Tuesdays and Fridays only. There is also a bus stop by the public house (at the end of Chapel Lane) in Hadham Ford which provides a service to Bishops Stortford approximately 3 times per day, 6 days per week.
16. In the context of a rural setting, the appeal site is not "away from an existing settlement", being close to Westland Green and with Hadham Ford only being some 1km away. Nor is it isolated in that it is quite close the grouping of properties that form Westland Green. Furthermore, it is not remote from services. Other gypsy and traveller sites that form part of the Council's identified existing supply are similarly situated in the rural area beyond the Green Belt in countryside locations. Such distances are not unusual in this context.

17. The walk distance between the appeal site and Little Hadham is circa 15 minutes; a distance regarded as the 'preferred maximum' walking distance¹. I am mindful, that given the unlit nature of Chapel Lane and lack of pedestrian footpath, in reality, and notwithstanding the availability of bus-stops in a reasonable walking distance if required, the site occupiers will be largely reliant on private vehicles to access services and facilities. However, those services and facilities do not, on a day-to-day basis involve long journeys. As set out in paragraph 103 of the National Planning Policy Framework ('the Framework'), opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
18. The nomadic lifestyle of gypsies and travellers obviously involves travelling for both economic and other purposes, towing their caravan. This involves the use of a private vehicle irrespective of location and so, whilst travelling, the same opportunities for using public transport simply do not apply. When away travelling, it will be necessary to access services and facilities wherever they are, rather than leaving and returning to the site on a daily basis for work. In this sense, and notwithstanding the TRICS data referred to, I would therefore expect overall vehicle trips to be lower than those of the settled community who are working.
19. In terms of other family members (or those that have ceased travelling if Policy HOU10 is to be applied) needing to access services and facilities including schools and medical establishments, the availability of these within a reasonable travelling distance is critical, bearing in mind that land in settlements or edge of settlements considered a suitable and sustainable location for housing for the settled population, is in most circumstances, simply not available to accommodate private gypsy and traveller sites. Opportunities to access regular bus services are therefore also less likely. In this case, the reasonable proximity to local schools, doctors and shops will certainly encourage shorter car journeys.
20. The Council refers to Policy DPS2, within its evidence although it was not referred to in the reason for refusal. This is an overarching policy that sets out the Council's strategy for delivering sustainable development, outlining the hierarchy for the location of development; the lowest tier being limited development in the villages. Whilst two allocations for gypsy sites form part of larger residential allocated sites, on the edge of settlements, prospective land values generally limit the possibility of private sites coming forward within or on the edge of settlements, if there is any prospect they may be suitable now or in the future for bricks and mortar housing. To apply this policy rigidly and out of context with PPTS and policies HOU9 and HOU10 it is likely to prohibit the ability for any sites intended to accommodate gypsies and travellers to come forward as windfalls. I do not therefore consider it a policy of direct relevance to this appeal. Similarly, the requirements of Policy TRA1 which require developments to ensure that a range of sustainable transport options are available to occupants or users, which may involve the improvement of pedestrian links, cycle paths, passenger transport network (including bus and/or rail facilities) and community transport initiatives are of less relevance to gypsy and traveller sites in the countryside.

¹ Appendix A of Mr Russell's proof of evidence – Table 3.1 Reasonable Walking Distances

21. In wider sustainability terms a settled base can reduce incidents of unauthorised encampments, reduce the need for continuous travel and facilitate consistent access to schools and medical services.
22. To conclude the site does provide a sustainable location for a gypsy and traveller site in relation to accessibility to services and facilities. I find that no conflict with criterion (a) of HOU9 and relevant national policy in this regard arises.

Character and appearance

23. In order to satisfy criterion (g) of Policy HOU9 the occupation and use of the site should not cause undue harm to the visual amenity and character of the area and should be capable of being assimilated into the surrounding landscape without significant adverse effect.
24. The Council also relies upon landscape policies not referred to in the reason for refusal, to support its case; in particular Policies DES2 'Landscape Character', DES3 'Landscaping' and NE3 'Natural Environment'. In addition, the Council refers to a 2007 Supplementary Planning Document (SPD) entitled 'Landscape Character Assessment'. This sets out descriptions and guidance relating to the Landscape Character Areas (LCAs) within the District. The appeal site lies within the western perimeter of the Hadhams Valley LCA 93. To the west of this and bordering the site boundary is the LCA 89, Wareside – Braughing Uplands.
25. The surrounding area comprises open fields punctuated with hedgerows and woodland copses. I concur with the views of both the Council's and appellant's landscape witnesses that the area is not a 'valued landscape' in the sense meant by paragraph 170 of the Framework. The surrounding area has no statutory status and is not identified as being of any particular quality that might differentiate it from other countryside in the development plan. It does however enjoy a tranquil rural landscape.
26. At times, open views are enjoyed across fields from Chapel Lane and in other sections the road is enclosed by vegetation. There are other residential properties relatively nearby at Westland Green, which comprise predominantly detached properties in large plots often set within a mature treed setting. The provision of 10 pitches within the site would be of a much greater density and comprise smaller individual plots set out in a regimented pattern. It would not reflect the dispersed pattern of nearby development. But there is no requirement within Policy HOU9 for it to do so. It is inevitable that a caravan site will have different characteristics to bricks and mortar housing. Any caravan site in the countryside is likely to have some impact.
27. The appeal site is adjacent to a section of the road where, when travelling in a westerly direction, open views are gained across the site and the caravans already in situ are clearly visible for a short time on the approach to the access and when passing the site. The impact is much less when approaching from the west going in an easterly direction, due to existing vegetation to the south west of the site (a Local Nature Reserve) and the existing hedge along the north-west boundary. Open and unfiltered views are also available walking towards the site on footpath 54. I also observed long distance views across the valley from A120 / footpath near Stone House Farm where the white of the caravans can be observed on the ridge. Views of the site are otherwise

- relatively well filtered and screened by surrounding vegetation, even during the winter months.
28. The area within the site where the pitches would be situated is set back from Chapel Lane. The proposal is for a sizeable site intended to accommodate 10 pitches. Along with the potential stationing of a mobile home on each pitch, there will be the construction of a utility building, the stationing of a touring caravan for at least some of the time, vehicles and associated residential paraphernalia together with the activity associated with 10 residential pitches. Its size therefore adds to its presence in its tranquil rural surroundings.
 29. The assessment to be made is whether it would cause undue harm to the visual amenity and character of the area and whether it is capable of being assimilated into the surrounding landscape without significant adverse effect. The landscape drawings show that the hardstanding areas which would provide a suitable surface for the stationing of a mobile home, touring caravan and utility building, could be restricted to the section of each plot closest to the access thus limiting the area of 'development' to the central areas. This would ensure a buffer of unsurfaced grassed areas at the outer most sections of each plot allowing for additional supplementary planting to that suggested around the perimeter of the site and between pitches. A paddock area is to be retained between the pitches and Chapel Lane. A condition controlling the actual layout of the site, thus ensuring the retention of the paddock area and limiting the extent of hardstanding areas and where caravans can be stationed could be imposed. Extensive landscaping of appropriate species would not appear out of place in this location and there is scope for the creation of hedges along with tree planting both along Chapel Lane, to the rear of the paddock adjacent to some of the pitches and along the access. This could be controlled through a suitably worded condition.
 30. Whilst it is not intended that gypsy and traveller sites should be hidden from view, some properties found along Chapel Lane are set back and sit within mature trees and planting. Such measures would not therefore be inconsistent in this particular setting. Along Chapel Lane there are already instances of access drives to properties in addition to agricultural access tracks. Whilst the access would remain visible, it would not be out of keeping.
 31. On balance, it is considered that despite the number of pitches sought, whilst the development does cause some harm it is not undue harm and it is capable of being assimilated into the surrounding landscape without significant adverse effect subject to an appropriate scheme of landscaping, that reflects the surrounding area. I therefore find no conflict with Policy HOU9 in this regard.
 32. Policy DES2 'Landscape Character' requires development proposals to demonstrate how they conserve, enhance or strengthen the character and distinctive features of the district's landscape. This policy must be considered in the context of policies HOU9 and 10 and cannot be applied in such a way so as to frustrate the granting of planning permission even where it is found that the proposal would not cause undue harm and so would satisfy criterion (g) of those policies specific to gypsies and travellers. In any event, with appropriate landscaping, it is considered that the proposed development would conserve the character of the area.
 33. PPTS requires that sites should respect the scale of, and not dominate, the nearest settled community. Westland Green comprises a small dispersed

grouping of dwellings in generous plots. Numerically, ten pitches would result in a substantial increase in the number of residential 'units' that may be associated with the nearest settled community if considered in isolation of Hadham Ford. However, the site is not read visually as being part of Westland Green, and in any event, taking the size of the site as a whole, it respects the overall scale of and does not dominate Westland Green.

34. To conclude, the development would not unduly harm that character and appearance of the surrounding area.

Highway Safety

35. Paragraph 109 of the Framework states that "Development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 108(b) requires that a safe and suitable access to the site can be achieved for all users. Policy HOU9 (and HOU10) of the East Herts District Plan require that the site is suitable in terms of vehicular access to the highway, parking, turning, road safety and servicing arrangements. The Council raised no concerns in relation to highway safety.
36. In the vicinity of the appeal site the national speed limit applies. The access as constructed is situated within the planning application site boundary. The proposed bell mouth incorporates land forming part of the bell mouth of the existing neighbouring access track. Whether or not all of the bell mouth forms part of highway land or encroaches on to private land that is not in the ownership of the appellant was a point of dispute at the Inquiry. From the revised drawings before me, and my observations on site, it appears that the access can be wholly created on land either in the appellant's ownership or on highway land.
37. Due to the proximity of the adjacent access, the highways witness for The Residents of Little Hadham, suggested that the highways authority would not support two accesses in such close proximity and / or that a much greater visibility would be required. I saw photographic evidence that there had been a field gate in the general area of the newly formed access and that a substantial log is used to block the adjacent access when it is not in use. I consider it would be reasonable to describe it as an agricultural access and largely restricted to a vehicle capable of moving the log, notwithstanding that I was told it can provide access to the Farm and other buildings on the holding. These can all be accessed by alternative means and without moving a log.
38. Revised drawings show the swept path analysis for a 4x4 towing a caravan (TWG/2r1), a 7.5 tonne box van (TWG/3 r1) and Fire Tender (TWG/4r1). I am satisfied that these movements can be achieved on land in the appellant's ownership and on highway land. I consider it would be a very infrequent occurrence that a vehicle may be waiting to leave this agricultural access at the same time another vehicle is either waiting in the highway to turn right into the newly formed access or waiting to leave. Any emergency vehicles would naturally be given priority into the site by a vehicle sitting in the adjacent access and waiting to exit. Otherwise a vehicle turning right would simply wait in the carriageway in the same way it would wait for a break in on-coming traffic; much in the same way as must happen when the adjacent access is in use. On exiting the site, a vehicle may have to wait until any vehicle impeding visibility moves. Although the log had been moved to one side on the day of

- my visit, I am not persuaded that this is anything other than an infrequently used agricultural access and of very little consequence to the safe operation of the newly created access.
39. The key consideration in my view is whether sufficient visibility can be achieved to ensure the safe operation of the access. The appellant has undertaken a traffic survey by way of an automated traffic count on Chapel Lane which formed the basis of calculating the 85th percentile speed. The 85th percentile speed represents the speed under which 85% of traffic stays at or below and is the accepted value on which design consideration should be based.
40. The highways witness appearing for Residents of Little Hadham was critical of both the location at which the speed survey data was obtained, being some 100m west of the access and the 85th percentile speed used to calculate the necessary visibility splay. In terms of the point at which speeds were recorded, the criticism is that at this point, Chapel Lane narrows and leads around a corner with poor forward visibility. So, it is expected that traffic travelling past the traffic counter approaching the corner would be slowing down and traffic travelling away would be speeding up. In the absence of any evidence to the contrary, I am not persuaded by the evidence before me or from my observations on site that the speeds recorded would be materially different at the location of the access or 100m to the west of it, such that a different conclusion might be reached on this issue.
41. The evidence of the appellant's highways witness was that the measured 85th percentile speed is 30mph and this is commensurate with the Target Maximum Speed for a local distributor road as set out in the Hertfordshire County Council (HCC) Highway Design Guide. This states "at worst, the 85th percentile speed should not be greater than this target maximum speed". Both parties nevertheless agreed that the definitions in the HCC Design Guide do not align well with existing rural roads.
42. The appellant's position changed having accepted the criticisms made by The Residents of Little Hadham in relation to the calculation of the 85th percentile speed². Re-calculating the 85th percentile based on the raw data of measured speeds recorded over a 24-hour period, an 85th percentile speed of 31 mph, instead of 30.3 mph, was derived. Whilst it exceeds the "at worst" position set out in the Design Guide this is only a marginal increase. Referencing Table 7.1 of Manual for Streets 2 (MfS) the Safe Stopping Distance (SSD) for 31 mph is 2m more than it would be for 30 mph. The appellant demonstrated that adequate visibility splays could be achieved in both directions from the newly created access, that being 2.4m x 34m. Indeed, it is the appellant's position that visibility requirements up to a design speed of 37mph may be accommodated (2.4m x 59m) and thus well within the parameters required for a safe access.
43. The highways witness appearing for The Residents of Little Hadham observed traffic travelling between 30 and 40 mph along Chapel Lane. His assessment of speeds was based on following other vehicles along the lane and keeping at the same speeds. He suggests a visibility requirement of either 59m assuming a speed below 37mph or 74m assuming a speed of 40mph. Both 'y' distances

² The 85th percentile traffic speeds had been calculated by summing the individual 85th percentile speeds calculated for each hour during the 24-hour period and then dividing by the number of hours to provide an average of the hourly calculated 85th percentile speeds.

are derived from MfS. There is no doubt, from my observations on site, that the latter cannot be achieved. However, the observed speeds were *between* 30 and 40 mph so there is no assessment of the most frequent speeds or the 85th percentile speed derived from this limited assessment.

44. In terms of reliable data, I prefer that derived from the automated traffic count over a 24-hour period. The raw data provided indicates a recorded speed of 40.1 mph and another at 37.9 mph travelling eastbound that were specifically brought to my attention as being the fastest speeds. These are not however typical of most of the speeds recorded over the 24-hour period with the vast majority being between 20 and low-mid 30s. A couple are unusually low being only around 6 mph which it was accepted could perhaps be attributed to cyclists. In a westbound direction a top speed of 41.6mph was noted. This was significantly faster than most which fell in the upper 20's and low 30s bracket and so, again not representative of typical recorded speeds.
45. A number of cars that passed by the access to the site at the time of my site visit were travelling at sufficient speeds for the drivers of vehicles travelling in the opposite direction to sound their horns. This did not appear to be consistent or typical with the speed of traffic or behaviour of drivers I observed earlier and later on the same day along Chapel Lane or from the recorded speeds. I give this little weight, preferring the data recorded over a 24-hour period and unfettered by a group of people standing around the access point.
46. Moreover, there is ample flexibility within the 'y' distances that can be achieved over and above that required for an 85th percentile speed of 31 mph. On site, I observed that a visibility splay of 2.4 x 59 m could be comfortably achieved.
47. To conclude, it is considered that the development would not have an unacceptable impact on highway safety and a suitable access to the site can be achieved. I find no conflict with Policy HOU9 and other transport policies requiring a safe access or national policy in this regard.

Other Material Considerations

48. It seemed to me from the evidence I heard that it is likely that the occupiers were fully aware of the need to secure planning permission but continued to develop and occupy the site in any event. This is further reaffirmed by the decision to not only proceed with the works to the access and areas of hardstanding to be created but to arrange for the arrival of caravans all on the same day and over a Bank Holiday Weekend. This is therefore a case of intentional unauthorised development. That is a material consideration of great weight that weighs against the grant of planning permission.
49. Nevertheless, given that I find that the development accords with the policies of the development plan and national policy, despite the weight to be afforded to this as a material consideration, it would not tip the balance against the grant of planning permission.
50. It is not necessary to consider whether other considerations such as the need for sites or the personal circumstances of the individual occupiers would be other considerations that may justify a grant of pp given that I find in favour of the proposal in any event. For reasons I set out under 'conditions' I do not find it necessary to determine whether occupiers meet the definition of a gypsy or traveller found in PPTS.

Conditions

51. A number of conditions that I might impose should planning permission be forthcoming were discussed at the Inquiry. The appeal was clearly made on the basis of a site for occupation by those meeting the definition of a gypsy and traveller found in PPTS. However, having found no conflict with Policy HOU9, it follows that there is also no conflict with Policy HOU10. The site would thus be acceptable having regard to the development plan, whether the occupiers were gypsies and travellers meeting the definition or not. Accordingly, whilst it would be necessary to restrict the occupation of the site to gypsies and travellers, it would not be appropriate, in light of my findings to also require the occupiers to be able to meet the definition contained in PPTS. Nor is it necessary to restrict occupation of the site to certain individuals as it was not necessary to consider any personal circumstances or the best interests of any children to determine whether planning permission should be granted or not.
52. It will be necessary to limit the number of caravans on each pitch to no more than two, of which only one can be a static to ensure the development does not cause undue visual harm. In addition, to ensure no undue visual harm arises, and critical to the continued use of the site, is the submission and agreement of landscaping details including details of safeguards and / or protective buffers against the Westland Green and Pigs Green Local Wildlife Site; and details of the layout of the site, including the location of hardstandings, utility buildings and the stationing of caravans. Details of the site access, including the provision of appropriate visibility splays will be required to ensure a safe means of access to the site. Other matters to be agreed include the disposal of surface and foul drainage and external lighting. As the development has commenced, the condition requiring the submission of details will need to be worded in such a way that the use should cease in the event of any failure to comply with this requirement.
53. Based on the evidence before me, a condition requiring a programme of archaeological works is not considered to be reasonable or necessary for a development primarily relating to a material change of use.
54. I consider it necessary to restrict vehicles to those not greater than 3.5 tonnes in the interests of the visual amenity of the area. I saw some additional sheds etc that had been erected. For the avoidance of doubt, this permission does not grant or authorise any additional buildings on the site other than the utility buildings, to be constructed in accordance with the elevational details. A condition clarifying that approval would be required for additional structures would be reasonable and the removal of permitted development rights for fences, walls etc to protect the visual amenity of the area.

Overall Conclusion

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

C Sherratt

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans, except where details are required to be submitted under condition 5: Location Plan (Dwg no. J003258/CD01); Proposed Site Plan (Dwg no. J003258/CD02).
2. The site shall not be occupied by any persons other than gypsies and travellers.
3. There shall be no more than 10 pitches on the site and on each of the 10 pitches hereby approved no more than 2 caravans, shall be stationed at any time, of which only 1 caravan shall be a static caravan.
4. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
5. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for:
 - the means of foul and surface water drainage of the site;
 - proposed and existing external lighting on the boundary of and within the site;
 - the provision of adequate visibility splays at the site access;
 - the internal layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas;
 - a scheme of tree, hedge and shrub planting including details of species, plant sizes and proposed numbers and densities including details of safeguards and / or protective buffers against the Westland Green and Pigs Green Local Wildlife Site. Unless identified to be removed, all existing trees and hedgerows on the land, shall be retained. The scheme shall set out measures for their protection throughout the course of development;(hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

6. At the same time as the site development scheme required by condition 5 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of 5 years of (i) the proposed planting beginning at the completion of the final phase of implementation as required by that condition and (ii) the trees and hedgerows to be retained beginning at the practical completion of the development. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modifications), no sheds or amenity/utility buildings, or other buildings or structures, walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site unless details of their size, materials and location shall have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
8. No external lighting, other than that approved under Condition 5 shall be provided without the prior written permission of the Local Planning Authority.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Meyric Lewis

He called:

Ms Ellis Edmonds BA(Hons) Geography, MA URP MRTPI	Principal Planning Officer (Development Management) at East Herts District Council (EHDC)
Kay Mead BA (Hons) LA DipTPS MRTPI	Principal Planning Officer (Policy) at EHDC
Steve Jarman	Senior Research Executive for Opinion Research Services Ltd
Ann Westover BA (Hons) Dip LA CMLI	Landscape Architect Associate for Place Services, (Essex County Council)

FOR THE APPELLANT:

Mr Alan Masters

He called:

Mr Brian Woods BA (TP) MRTPI	Of WS Planning and Architecture (Planning Witness)
Mr Tom Green BEng CEng MICE	Of SLR (Highways Witness)
Mr Robert Petrow BA (Hons) & PGDipLA CMLI	Managing Director of Petrow Harley Ltd (Landscape Witness)
Mr Timothy Mahoney	Pitch (Plot 1)
Mr Sean Mahoney	Pitch (Plot) 2
Ms Ann O'Driscoll	Pitch (Plot) 3
Mr Clark	For Dena Morgan Pitch (Plots) 4 & 5
Ms Charleene Pryce	Pitch (Plot) 6
Mr Peter Donoghue	Pitch (Plot) 7
Mr T Mahoney	Pitch (Plot) 8
Ms J O'Sullivan	For John O'Sullivan Pitch (Plot) 9

FOR THE RESIDENTS OF LITTLE HADHAM:

Mr Matthew Reed QC

Instructed by Anthony Allen of Allen Planning Ltd

He called:

Mr Anthony Allen BA Hons Dip TP MRTPI	Of Allen Planning Ltd
Mr John Russell B.Eng CMILT MIHT	Thames Valley Regional Director of Motion Ltd (Highways Witness)

DOCUMENTS RECEIVED AT THE INQUIRY

- 1 Appearances for the Council
- 2 Appearances on behalf of The Residents of Little Hadham (Rule 6 Party)
- 3 Correspondence submitted by the Rule 6 Party from Mr Stigwood.
- 4 Opening Statement on behalf of East Herts District Council.
- 5 Opening Statement on behalf of The Residents of Little Hadham (Rule 6 Party).
- 6 Various letters of support submitted by the appellant.
- 7 Suggested Site Visit Itinerary.
- 8 Supplementary Evidence of Tom Green
- 9 Note from Mr Russell on 85th percentile speed calculation.
- 10 Rebuttal Evidence of Mr Green.
- 11 Land registry Document.
- 12 High Court Judgement – East Herts DC v Thomas Docherty and Others [2019] EWHC 2696 (QB).
- 13 Correspondence between Oliver Sowerby of HCC & Mr Green (Nov and Dec 2019).
- 14 Suggested Conditions.
- 15 Costs application on behalf of the Rule 6 Party.
- 16 Costs application on behalf of the appellant.

Note: Responses to the applications for costs and Closing Submissions for all the parties were submitted in writing after the Inquiry concluded.



Costs Decision

Inquiry Held on 12 – 15 & 29 November 2019, 9 & 10 December 2019

Site visit made on 11 December 2019

by C Sherratt DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2020

Costs application in relation to Appeal Ref: APP/J1915/W/19/3234671 Land off Chapel Lane, Letty Green, Little Hadham, Hertfordshire SG11 2AB

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Timothy Mahoney and Traveller Group for a partial award of costs against The Residents of Little Hadham (Rule 6 Party).
 - The inquiry was in connection with an appeal against the refusal of planning permission for the change of use of land to 10 pitches accommodating the siting of 10 mobile homes and stationing of 10 touring caravans and 10 utility buildings. Formation of access road and hardstandings.
-

Decision

1. The application for an award of costs is refused.

The submissions for Timothy Mahoney and Traveller Group

2. The submissions were made in writing and so I need not repeat them in full here. In brief, the application is made due to the introduction of two pieces of evidence; one relating to the calculation of the 85th percentile speed and secondly, the submission of a letter purported to be from the owner of the farm. It is submitted that the contents were not true and were known not to be true relating to the construction of the access to the site.

The response by The Residents of Little Hadham (Rule 6 Party)

3. The response was made in writing and so need not be repeated in full. In brief, the Rule 6 Party say in response that it was simply questioning the 85th percentile evidence which was already before the Inquiry. The Rule 6 Party was entitled to take this point without any notice. The real reason that the appellant complained about it, it is suggested, was because Mr Green's evidence came first in the relevant session; but that was due to the appellant's change of position on the access.
4. It was reasonable for the Rule 6 Party to submit the letter in response to the evidence contained in Mr Woods' rebuttal which sought to promote the third access iteration, which used the track entirely on Mr Stigwood's land. This was an entirely new point which could not have been responded to before Mr Woods' rebuttal

Reasons

5. The challenge to how the 85th percentile speed had been calculated did not form part of the case of The Residents of Little Hadham and was first raised during cross examination of Mr Green. Indeed that was the first opportunity to challenge it, other than in the rebuttals where there was no requirement to do so, as it was appended to the appellant's proof of evidence addressing highway matters. The highway concerns were raised by the Rule 6 party rather than the Council.
6. The evidence for the appellant was heard first on this topic so that the position with the access could be made clear to the Inquiry. Accordingly, this point was not raised in the examination in chief of the Rule 6 Party first. Even if that had been the case, I think it probable that the same objections would have been raised by the appellant's advocate. I have considered carefully the application and response and I am inclined to accept that the Rule 6 Party was entitled to challenge and test the evidence from which the visibility splay requirement was derived having first seen the data in the proof of evidence and underpinning the visibility splay requirements put forward by the appellant. No unreasonable behaviour occurred.
7. Added to this, there can certainly be no complaint of any procedural injustice given that the appellant's representative was given time to prepare and produce evidence in response, and the appellant's witness was recalled. Although the appellant's advocate made the case that he would be prejudiced if he could not conduct his cross examination in one chunk, thus resulting in a delay before this occurred, the adjournment was necessary in any event as the estimation of four days was woefully short.
8. I also find no unreasonable behaviour by the Rule 6 Party for submitting the letter from Mr Stigwood in response to the evidence contained in Mr Woods' rebuttal which sought to promote the third access iteration, which used the track entirely on Mr Stigwood's land. This was a new alternative access which the Rule 6 Party could not have been responded to in any way before Mr Woods' produced his rebuttal. Once this alternative was withdrawn the Rule 6 Party did not continue to rely on this letter.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

C Sherratt

INSPECTOR



Appeal Decision

Site visit made on 21 January 2020 by John Gunn DipTP Dip DBE MRTPI

Decision by P J Davies BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Ref: APP/J1915/D/19/3237683

16, Wicken Fields, Ware SG12 0XH

- 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 Ryan Thomas against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0955/HH, dated 6 May 2019, was refused by notice dated 1 July 2019.
 - The development proposed is a second storey front extension with a part two storey and single storey rear extension.
-

Decision

1. The appeal is allowed, and planning permission is granted for a second storey front extension with a part two storey and single storey rear extension at 16, Wicken Fields, Ware SG12 0XH in accordance with the terms of application 3/19/0955/HH, dated 6 May 2019 and 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 location plan and following drawings: Drawing Numbers 104_006; 104_007; 104_008; 104_009; 104_010.
 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.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. The description of development in the heading above has been taken from the planning application form. However, a different wording has been entered in the appeal form. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

4. The Council has indicated that it does not have any concerns relating to the rear extension and from what I have seen and read this part of the scheme would be acceptable. Therefore, the main issues are the effect of the proposed second storey front extension upon: 1) the character and appearance of the area and 2) the living conditions of the occupiers of No 18 Wicken Fields.

Reasons for the Recommendation

Character and Appearance

5. The appeal site is situated on a modern housing estate characterised by 2 storey detached houses set within medium sized plots. Individual dwellings are set a short distance back from the road with provision for off street parking facilities and small front gardens. This contributes towards the open character of the area. The cul-de-sac in which the appeal site lies has a range of house designs, with irregular building lines, providing the area with variety and visual interest.
6. At my site inspection I noted that most individual dwellings have limited space between them. I also noted that some dwellings have two storey forward projections covered with gabled roofs, others single storey forward projections with catslide roofs. The host property and its immediate neighbours have single storey forward projections with a mono pitch roof over the garage.
7. The appellant has drawn my attention to properties at 26, 27, 28 and 46 Wicken Fields which he indicated have similar extensions to those being proposed. Whilst I have insufficient information to determine the individual circumstances under which those extensions were permitted, I did note on my site visit that a number of properties in the cul-de-sac had an external appearance, and separation distances from their neighbours, similar to that being proposed. Moreover, these developments reinforce the diverse mix of house styles and appearances in the cul-de-sac and the estate generally. Consequently, the development would not introduce an alien form of extension that would be out-of-keeping with the character of the street.
8. The second storey front extension would sit above the existing garage and would be visible within the street. Its hipped roof would respond to the mono-pitched roofs over the projecting garages at Nos 12, 14 and 18. It would also be seen in the context of other properties in the street, including No 20 which projects well forward of Nos 12-18. In views on the approach to the appeal property, the latter forms a visually dominant backdrop and as a result the proposal would not appear as a prominent feature in the street scene.
9. In the light of the above, I find that the second storey front extension would not have a harmful visual effect upon the character and appearance of the area. Accordingly, the development complies with Policies DES4 and HOU11 of the East Herts District Plan – October 2018 (DP), which require developments to contribute positively to the surroundings and be appropriate to the local setting and context.

Living Conditions

10. The Council is concerned that the front extension would have an overbearing effect on neighbours at No 18 with specific reference to the impact of the proposal on the front facing living room.
11. The appellant has made reference to a ground floor front extension that has been erected at No 18 which brings the room containing the nearest ground floor window in line with the proposed front extension. I was able to confirm that this was the case on my site visit. Given this relationship the occupants of No 18 would be unable to view the proposed second storey front extension from their ground floor window. Consequently, it would not have an overbearing impact on their living conditions.
12. In the light of the above, I find that the second storey front extension would not be harmful to the living conditions of the occupiers of No 18. Accordingly, the development complies with Policy DES4 of the East Herts District Plan – October 2018 (DP), which requires developments to avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties.

Conditions

13. A condition requiring the development to be commenced within 3 years of the date of this decision is necessary in accordance with Section 91 of the Town and Country Planning Act 1990. To ensure that the development is undertaken as approved a condition referring to the approved plans is necessary. A condition requiring materials to match the existing property is also necessary to protect the character and appearance of the area.

Conclusion and Recommendation

14. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

J Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

P J Davies

INSPECTOR



Appeal Decision

Site visit made on 16 March 2020

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2020

Appeal Ref: APP/J1915/W/19/3243572

11-15 London Road, Sawbridgeworth CM21 9EH

- 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 Geoffrey Hewson (Swayprime Ltd) against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0956/FUL, dated 7 May 2019, was refused by notice dated 1 November 2019.
 - The development proposed is described as "crossover and the regularisation of a hardstanding and a levelled parking area to provide 2 off-street parking spaces for nos. 11, 13 and 15 London Road properties".
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the address of the appeal site from the appeal form as this makes clear that the appeal relates to 3 neighbouring properties.
3. I have also taken the description of development from the appeal form as this is the most accurate description of the development and makes clear that planning permission is sought for the hardstanding and other works associated with the parking area, as well as the crossover.
4. During my site visit I saw that the creation of the parking area was substantially complete. I have determined the appeal on this basis.

Main Issue

5. The main issue is the effect on the character and appearance of the appeal site and the Sawbridgeworth Conservation Area.

Reasons

Character and Appearance

6. The appeal site is within the Sawbridgeworth Conservation Area (the CA). I am therefore required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA, in accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7. The hardstanding sits above the ground floor level of the houses at 11, 13 and 15 London Road due to the rising street level from the other end of the terrace. The hardstanding is partly screened from view by the boundary fence, but within the wider street scene I consider that the parking area is visible and out of keeping with the character of the wider terrace as an elevated area above the ground floor level of the property.
8. The appellant states that the development makes a positive contribution to the appearance of the site and the host properties. They also consider that the development is not prominent in the street scene with restricted views of the hardstanding. However, the wider terrace consistently has level front gardens set down from the street level to an increasing degree with the change in street level. The development that is the subject of this appeal results in a stepped garden at the front of the host properties. Having viewed the site from London Road during my site visit, I found that the hardstanding was visible in the street scene and that this appeared incongruous within the context of the wider terrace.
9. The appellant also argues that the development has improved the appearance of the appeal site, which had become overgrown and unkempt. However, I am not convinced from the evidence before me that the condition of the site could not have been improved in other ways.
10. As material harm has been identified due to the appearance of the development it is necessary to determine whether this amounts to substantial or less than substantial harm. Having regard to paragraph 196 of the National Planning Policy Framework (the Framework) the development relates to a crossover and raised parking area out of keeping with the character of the host properties and the wider terrace. However, its visibility in the street scene is limited to its immediate vicinity. The harm to the character and appearance of the CA is therefore less than substantial when weighed against the significance of the CA as a whole.
11. I have not been presented with any evidence of any public benefit arising from the development. I am required to give great weight to the conservation of the significance of the CA, in accordance with paragraph 193 of the Framework, irrespective of the degree of harm that would result. In this instance I find that the harm from the incongruous appearance of the development within the context of the wider terrace of properties would outweigh the benefits of the development.
12. Taking all the above factors into consideration I therefore conclude that the development proposed would fail to preserve the character and appearance of the site and the CA, thereby causing unacceptable harm. It would therefore conflict with Policies HOU11, DES2, DES4 and HA4 of the East Herts District Plan October 2018. These policies require, amongst other things, that development in a CA preserve or enhance its special interest, character and appearance.

Other Matters

13. The appellant notes that the Council found that the principle of parking was acceptable in this location, and that the Council did not find that the erection of a fence and planters caused harm to the character of the CA. Be that as it may,

the absence of identified harm on these points is a neutral consideration in determining this appeal and does not weigh in favour of the scheme.

14. The appellant has also drawn my attention to the existing hardstanding at the front of No 17 London Road. I do not have in evidence before me the planning circumstances of this hardstanding. However, I note that it serves a single dwelling of a different character to Nos 11-15 and is on the same level as the ground floor of its host property. It therefore differs materially to the proposal before me.

Conclusion

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

M Chalk

INSPECTOR



Appeal Decisions

Site visit made on 4 February 2020

by Nick Fagan, BSc (Hons), DipTP, MRTPI

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

Decision date: 17th February 2020

Appeal Ref: APP/J1915/W/19/3237241

Water Tower, Goldens Way, Goldings Estate, Waterford, Hertfordshire, SG14 2WH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr Dermot Flannery against the decision of East Hertfordshire District Council.
 - The application Ref: 3/19/1127/FUL dated 30 May 2019, was refused by notice dated 19 July 2019.
 - The development proposed is the restoration and conversion of the water tower as a single bedroom residential unit with infill of the lower structure, with associated landscape works.
-

Appeal Ref: APP/J1915/Y/19/3237450

Water Tower, Goldens Way, Goldings Estate, Waterford, Hertfordshire, SG14 2WH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Dermot Flannery against the decision of East Hertfordshire District Council.
 - The application Ref: 3/19/1128/LBC dated 30 May 2019, was refused by notice dated 19 July 2019.
 - The works proposed are the restoration and conversion of the water tower as a single bedroom residential unit with infill of the lower structure, with associated landscape works.
-

Decisions

1. The appeals are dismissed.

Main Issues

2. The main issues are:
 - (a) Whether the proposals would be inappropriate development in the Green Belt and, if so, whether such development is clearly outweighed by very special circumstances; and
 - (b) The effects of the proposed residential conversion of the water tower on its historic character as a curtilage listed building, on the setting of the Grade II* listed Goldings Manor (LB) and on the Grade II Registered Park and Garden (RP).

Reasons

Green Belt Issues

3. Policy GBR1 of the East Herts District Plan 2018 states that applications within the Green Belt will be considered in line with the provisions of the National Planning Policy Framework (NPPF).
4. NPPF paragraph 145 states that the construction of new buildings in the Green belt is inappropriate subject to a number of relevant exceptions including:
 - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; and
 - g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development.
5. NPPF paragraph 146 states that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it, including:
 - d) the re-use of buildings provided that the buildings are of permanent and substantial construction.
6. I shall consider the effect of the proposal on openness first. The water tower comprises of a 92m³ steel water drum, 5.1m high and 4.9m in diameter, which sits 17.6m above ground level on a substantial steel frame with a square plan. It dates from around the time the house was built in the 1870s or shortly thereafter. The drum is rusty, but the frame appears stable and this is confirmed by a structural engineer's report commissioned by the appellant.
7. The tower is sited 70m north of the Manor, which has been converted into separate dwellings, and 50m south of the North Field Houses, which were built in 2004 as part of the redevelopment works to convert the LB and estate into a new residential development. It sits in a partially wooded area between these two sets of residential buildings and is partially screened from them by trees of various ages. However, from some of the North Field Houses and standing near to the tower, it is easy to see through the steel frame to the trees and surrounding land because it is an open structure.
8. The proposal involves infilling the existing steel frame with a mixture of anodised metal rain screen cladding, with various aluminium framed windows including large windows covering the majority of the south east and south west elevations at ground and first floor levels. Due to the limited size of the floor plans it is necessary to erect a four-storey staircase extension, which would be to the north east elevation and would comprise green profilit channel glazing.
9. These works would fail to preserve the openness of the majority of the existing structure (the steel frame of the tower) because they would enclose the four sides of the frame. The large windows on the ground and first floor would allow some vision through the south east and south west elevations but only if the blinds in these windows were not down. What is now an open tower would become a four-sided building, with a consequent impact on visual openness. The translucent stair tower would be obscure glazed and would not allow views

through it. The existing steel frame indicates the presence of a building, but its complete enclosure and extension clearly impacts on openness simply as a matter of fact. For these reasons the proposals do not fall within the exceptions of NPPF paragraph 145 g) or 146 d).

10. Assuming that the water tower is a 'building' I now consider whether the staircase addition to it is a disproportionate addition in terms of NPPF paragraph 145 c). According to the appellant's figures it would be a 17% increase in the volume of the building (60.2m³ against 345.2m³). I consider this to be a disproportionate addition over and above the original building. In saying this I am conscious of its dominating visual impact on the character and appearance of the water tower because it significantly changes the slim profile of the existing tower.
11. For these reasons I conclude that the proposed works would be inappropriate development in the Green Belt. The appellant suggests a number of other considerations which he argues amount to very special circumstances (VSC) that would justify nonetheless allowing them. The fact that the proposal would create a small dwelling is not a VSC because that would apply to many dwellings proposed within the Green Belt.
12. It is suggested that the proposed development would create a visual focus along the lines of a folly within the registered park and garden. The evidence that is presented that this water tower was such a folly originally or that there was some other structure in this part of the grounds is sketchy. I am unconvinced that the 1880 plan in the appellant's Design Access Planning and Heritage Statement shows any previous structure as a focal point in this area; on the contrary, it appears that the site of the water tower in the 1923 plan actually lay outside the parkland in 1880. It also lay to the north of a tree belt in the 1923 plan, which suggests it was not meant as a focal point. I suspect it was sited in this position because it lay on higher level land above Goldings Manor and that it was never intended – being of a rather utilitarian appearance – to act as any sort of focus for the occupants of the Manor.
13. The idea that the proposed new dwelling in the water tower could become some sort of folly now and that this would somehow enhance the registered parkland is unconvincing and, in my view, inappropriate even if it could be seen clearly from the Manor House.
14. For these reasons no other considerations exist amounting to very special circumstances necessary to allow this inappropriate development within the Green Belt. In concluding this I am conscious that the residential development of the estate allowed in 2003/4 included all the well-designed new dwellings in the walled garden and the North Green Houses. But I am unaware of the totality of the planning issues and development plan policies that led to the decisions to allow that development and I must assess this proposal on its merits in relation to current Green Belt policy.

Heritage Issues

15. The water tower lies within the setting of the Grade II* Manor House and as such is a curtilage listed building, as well as lying within the Grade II Registered Park and Garden. It is unclear exactly when it was erected, since there is no description of it in the listing. It is of some historic interest because it originally provided water for the Manor House.

16. However, as set out above, there is scant evidence that it provided a visual focus in this northern area of the estate grounds. The structure has been redundant for some time. It is not particularly attractive, distinctive or rare – many such buildings exist in the country. Whilst I agree that this area of the estate has been subject to a number of changes over the years, including the construction of the North Field Houses in 2004, that is not a reason in itself for retaining the water tower.
17. There are glimpsed views of the water tower from within this treed area between the Manor House and North Field Houses as well as from these buildings themselves. There would continue to be such views of the converted and extended water tower if the proposal went ahead. But the views from the Manor House are largely shielded by trees, even if the three young conifers to the south west of the tower were to be removed. I consider this shielding, and the fact that it is 70m away, would mean that it would not harm the setting of the Manor House, nor therefore its significance as a LB.
18. However, the staircase extension, with its flat roof, would unbalance the elegant slim profile of the current steel structure, giving it a clumsy and unsympathetic shape. Whilst the external materials proposed for it would be as satisfactory as possible, they would not disguise the disproportionate size and impact of the staircase extension on the existing water tower and indeed bring into question the reason for retaining it at all.
19. There has already been a substantial change in this part of the RP by the North Field Houses. The insertion of a new tall dwelling in the parkland between these dwellings and the Manor House to the south, along with the associated terrace area, ground cover planting, storage sheds, regularly used parking area and the possibility of fences or other boundary treatments would not enhance the park's character or appearance. In my view this area of parkland should be retained as an open treed area without any additional residential uses, even if this means the removal of the water tower – because it is not a significant or important element of the LB or the RP.
20. I acknowledge that the proposal includes the planting of 10 new trees including a new semi-mature cedar and two advanced nursery stock English oaks and that this would enhance the parkland. But new trees could easily be planted without the need to preserve and convert the water tower to residential use. I also acknowledge that water towers have been successfully converted elsewhere, although I note the two examples given did not require an external staircase tower to be added onto them.
21. I can understand that the proposed conversion works would comprise an interesting and imaginatively quirky engineering project but, for the above reasons I conclude that they would harm the Registered Park and Garden and be contrary to the relevant heritage and design policies of the Local Plan set out in the Council's refusal reasons as well as Chapter 16 of the NPPF.

Conclusion

22. For the reasons given above I conclude that the appeals should be dismissed.

Nick Fagan

INSPECTOR



Appeal Decision

Site visit made on 17 February 2020

by **S Harley BSc(Hons) MPhil MRTPI ARICS**

an Inspector appointed by the Secretary of State

Decision date: 20th February 2020

Appeal Ref: APP/J1915/D/19/3239121

6 Poplar Close, High Cross SG11 1AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr C Krauss against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1238/HH, dated 11 June 2019, was refused by notice dated 6 August 2019.
 - The development proposed is a single storey front extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a single storey front extension at 6 Poplar Close, High Cross SG11 1AY in accordance with the terms of the application, Ref 3/19/1238/HH, dated 11 June 2019, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 4751-OS1, 4751-OS3-PLNG and 4751-P01-PLNG.
 - 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 Issues

2. The main issues are the effect of the proposal on the character and appearance of the host property and the street scene; and the effect on the living conditions of occupiers of No 5 Poplar Close, the adjoining property.

Reasons

Character and appearance

3. Poplar Close is a residential cul-de-sac comprising mostly semi-detached and short terraces of two storey houses and bungalows. No 6 is a semi-detached, two-storey house. The houses are of a rather plain design with pitched roofs set back behind front gardens some of which contain off-street parking space. Although there are a variety of facing materials such as brick, render and pebble dash, the properties on Poplar Close are otherwise similar in appearance although a few have front porches of different sizes and styles.

4. The proposed extension would have a pitched roof some 3.1m at the highest point with an eaves' height of about 2.2m. It would project about 1m from the face of the building and be constructed of matching materials. It would span the width of the two storey part of the dwelling but the existing single storey utility to the side would be unaltered. Although wider than other porches along the street this modest extension, due to its size, design and position set back from the highway boundary, would be subservient to the host property and would not be so prominent or out of keeping as to upset the architectural form of the street. Moreover, it would not be dissimilar to front extensions at properties on the nearby North Drive.
5. I conclude the proposal would not have a harmful effect on the character or appearance of the host property or the street scene. Accordingly I find no conflict with those aspects of Policies HOU11, VILL2 and DES4 of the East Herts District Plan 2018 (the DP) which seek to protect and enhance the character and appearance of the local area.

Living Conditions

6. There is a ground floor window in the front wall of No 5 set in a little way from the shared boundary. The proposed extension would adjoin the shared boundary. However, it would project only about 1.5m forward of the front wall and would be to the north-east of the neighbour's window. As the roof would be pitched the height of the side wall of the proposed extension would reduce to about 2.2m at the furthest point from the wall. Although the outlook from the window of No 5 would change, taking into account the proposed scale and position, I conclude that the extension would not have such an adverse effect on light and outlook as to justify withholding permission.
7. For these reasons I conclude, on balance, that the proposal would not have an unacceptably harmful effect on the living conditions of occupants of No 5. Accordingly I find no conflict with those parts of Policies VILL2 and DES4 of the DP which seek to avoid a detrimental impact on the living conditions of occupiers of neighbouring houses and land.

Conditions

8. As well as the standard condition specifying the time limits for commencement of development compliance with the approved plans is necessary to provide certainty. Materials for external surfaces should match those of the existing building in the interests of the appearance of the area.

Conclusion

9. For the reasons set out above the appeal is allowed.

S Harley

INSPECTOR



Appeal Decision

Site visit made on 7 January 2020

by S Shapland BSc (Hons) MSc CMILT MCIHT

an Inspector appointed by the Secretary of State

Decision date: 26 March 2020

Appeal Ref: APP/J1915/W/19/3237941

24 Ashdale, Bishops Stortford, Hertfordshire CM23 4EA

- 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 David Milne (Rivertree Developments) against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1341/FUL, dated 21 June 2019, was refused by notice dated 30 August 2019.
 - The development proposed is construction of new 2 bedroom end of terrace house .
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. On the 13th February 2020 the Government published the 2019 Housing Delivery Test (HDT) results, which updated the HDT figures for East Hertfordshire District Council. Both parties have been provided with the opportunity to comment on these changes, and I have determined the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers at No.48 The Ridings, with particular regard to outlook.

Reasons

4. The appeal site forms the side garden of No.24 Ashdale, and is located within an existing residential area of Bishops Stortford. The appeal site is situated at the end of a row of terraces of two storey dwellings, and is within a cul-de-sac. The appeal proposal is for the construction of a new two-bedroom end of terrace house, and would include two car parking spaces to the front of the site.
5. The neighbouring property of No.48 The Ridings due to its orientation faces the appeal site. The appeal proposal would bring a large flank wall within close proximity to the boundary of this neighbouring property. The garden of No.48 is not overly deep, and therefore the rear of this property would not have a large separation distance to the appeal proposal. During my site visit I observed that No.48 has a number of habitable rooms at the rear of the property which would look directly at this flank wall. This includes a kitchen and lounge window which are at the rear of the property on the ground floor.

6. Given the relatively small separation distance between the rear of the property and the appeal site, the proposal would appear overly dominant to the occupiers of this property, particularly when viewed from the rear garden and rooms which face the appeal proposal. Whilst the current outlook is one of a flank wall, the proposal would bring development much closer to the boundary. This would result in a greater feeling of enclosure within this rear garden and have an overbearing outlook for the occupiers. Accordingly, this would harm their living conditions in respect of outlook.
7. The occupiers of No.48 have raised concerns that the appeal proposal would reduce the level of sunlight which would reach the rear two habitable rooms. The appellant has produced a daylight and sunlight assessment¹ which considers the impact of the proposal on the daylight of the property. The results of that assessment demonstrate that the proposal would reduce the level of sunlight to No.48, however the amount of reduction is slight and unlikely to be noticeable. However, this does not alter that the proposal would appear overly dominant to the occupiers of this property.
8. Consequently, I find that the proposal would harm the living conditions of neighbouring occupiers at No.48 The Ridings, with particular regard to outlook. It therefore conflicts with policy DES4 of the East Hertfordshire District Plan 2018, which seeks amongst other things, that development does not have a detrimental impact on the amenity of occupiers of neighbouring properties. The Council's reason for refusal also makes reference to the National Planning Policy Framework (the Framework). Whilst I have not been directed to specific areas of conflict, I find that it would fail to accord with its objectives towards good design.

Other Matters

9. The appeal site is located within an existing built up area, and is within easy access to a number of local amenities and facilities. This includes public transport links, schools, retail and sport facilities, which weigh in favour of the appeal. I note that the Framework is generally supportive of the development of smaller windfall sites such as this, and paragraph 122 states that planning decisions should support development that makes efficient use of land. However, the provision of a single house in this location would not outweigh the significant harm that I have identified above in respect of living conditions to neighbouring occupiers.
10. The appellant has indicated that the Council has demonstrated a pattern of under delivery of housing against the number of homes required, and thus the presumption in favour of sustainable development applies. The Council has not commented on this matter. The latest HDT figures demonstrate the Council has delivered 2,121 dwellings, from a requirement of 2,418. This represents approximately 88% of its need. Footnote 7 of the Framework states that paragraph 11 d) is triggered in circumstances where the HDT indicates that the delivery of housing has been substantially below the housing requirement over the past three years. The phrase "substantially below" is defined in footnote 7 as "less than 75%" of the housing requirement. However, that 75% figure only applies from November 2020. Transitional provisions in Framework paragraph 215 make it clear that the applicable figure from November 2019 to November 2020 is 45%.

¹ Daylight and Sunlight Assessment Brooks Development Practice Ltd 15/03/19

11. Therefore, under the transitional arrangements, I do not consider that paragraph 11d of the Framework has been triggered in this instance.

Conclusions

12. For the reasons given above the appeal is dismissed.

S Shapland

INSPECTOR



Appeal Decision

Site visit made on 17 February 2020

by **S Harley BSc(Hons) MPhil MRTPI ARICS**

an Inspector appointed by the Secretary of State

Decision date: 02nd March 2020

Appeal Ref: APP/J1915/W/19/3241524

Hall Croft, Church End, Little Hadham SG11 2DY

- 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 Ms Hayley Lynskey against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1463/FUL, dated 11 July 2019, was refused by notice dated 4 September 2019.
 - The development proposed is change of use of two bungalows to a registered day nursery (D1) and the installation of two electric vehicle charging points.
-

Procedural Matter

1. The site location is described on the planning application as set out above. However, it is clear from the application plans and the Council's Decision Notice that the appeal site also includes the attached property called Churchfield. I have considered the appeal on this basis.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is whether the appeal site is a suitable location for a day nursery having regard to the degree of accessibility by sustainable forms of transport and local and national policies for employment and community facilities development within the rural area.

Reasons

4. Hallcroft and Churchfield are a pair of semi-detached bungalows off Church End, about 1km from the edge of the village boundary of Little Hadham, a Group 2 Village, as defined in the East Herts District Plan October 2018 (the DP). It is about 3km from Bishops Stortford. Accordingly, for local planning policy purposes, the appeal site is identified as being in the Rural Area Beyond the Green Belt on the DP Policies Map.
5. The Development Strategy for the area set out in the DP directs most development to sustainable brownfield sites and to sites in or adjacent to urban areas with limited development in villages. In rural areas Policy GBR2(c) of the DP allows for new employment generating uses where they are appropriately and sustainably located, in accordance with Policy ED2 (Rural Economy).

6. As well as the Hadham Industrial Estate, which has developed within the former agricultural buildings at Church End Farm, a small number of other dwellings and St Cecelia's Church are accessed from Church End cul-de-sac. Hallcroft and Churchfield are adjacent to the edge of the Hadham Industrial Estate at the end of a fairly long access partly shared with the Church carpark area. Around all of these are open fields. At the time of my site visit one of the appeal bungalows was being lived in. I was able to see inside the other: this appears to be in reasonable condition and, from a brief visual inspection, does not appear to be particularly unsuitable for occupation as a dwelling.
7. Hadham Industrial Estate, the main economic hub for the village, contains a range of businesses including the appellant's business known as Early Birds and Night Owls. This office has been based in a unit here for some time. The business has offered childcare for many years in the surrounding area for children aged two to eleven years old. The evidence indicates the appellant employs 48 staff, based in a number of schools, providing childcare to some 456 families. The appeal proposal relates to a new venture which would comprise a day nursery to offer childcare for children from six months old upwards.
8. Initially it was proposed that the day nursery would accommodate between 35 to 40 children per day once fully operational but the appellant has subsequently indicated that numbers could be limited to 35 by condition. In practice the premises would be of sufficient size to accommodate more than 35 children, and, should the principle of the use be established, it might then be difficult to restrict increased numbers in the future.
9. The DP and the Framework support and encourage a reduction in car usage, but it is necessary to recognise the importance of private motorised transport in enabling the population of more rural locations to access key facilities and services. Opportunities to maximise sustainable transport solutions will vary from urban to rural areas and to meet local needs in rural areas sites may have to be found in locations that are not well served by public transport.
10. The day nursery business would employ approximately 13 staff per day. Policy ED2 of the DP in principle supports new employment generating uses or the expansion of existing businesses in the rural area where they are appropriately and sustainably located and do not conflict with other policies within the Plan. The National Planning Policy Framework (the Framework) also gives significant weight to economic growth and advises that planning decisions should enable sustainable growth and expansion of all types of businesses in rural areas.
11. Policy TRA1 of the DP directs development proposals to places which enable sustainable journeys to be made to key services and facilities. The appellant indicates there is significant demand for a day nursery from the existing customer base but no detailed evidence of the extent of the demand, or the predicted catchment area, has been provided. The Transport Statement Revision A indicates that carers are more likely to choose a childcare facility most convenient to them and suggests there is the potential for about 60% linked trips between the proposed day nursery and the Hadham Industrial Estate.
12. Nineteen survey forms were distributed by the appellant and this identified eight expressions of interest for a day nursery with the potential for trips linked to businesses at Hadham Industrial Estate. However, this would be a relatively

small proportion of users of the day nursery, even if all of them came to fruition. Those commuting along the A120 would not have far to divert to the site but no information has been provided of the likely catchment area of future customers or how long the journeys would be.

13. There are Monday to Friday bus services at about one to two hour intervals along the A120 connecting with Bishop's Stortford and Hertford/Stevenage as well as less frequent bus services elsewhere. The bus stops are located at the traffic light controlled junction of the A120 and Albury Road some 800m to 900m¹ from the appeal site. The Manual for Streets 2007 indicates that about 10 minutes walking distance may be comfortable, although this is not an upper limit. Research undertaken in 2018 by WYG indicates an acceptable distance for walking is 810m (85th Percentile).
14. The appeal site would be about on, or over, the upper limit for comfortable walking distance to bus stops for many people. Moreover, the route to and from the site from the bus stops would require walking along, and crossing, the A120, (there is a footpath about 1.2m wide on one side) which is heavily trafficked, and along the access road into Church End, which has no footpath along most of its length; is frequented by HGVs and commercial vehicles; and relies on the grass verge in places for larger vehicles to pass.
15. Although there may be a reduction in traffic along this section of the A120 once the Little Hadham bypass is opened, the whole of this walking route is unlit. Due to the relative infrequency of the bus services; the distance to the bus stops; and the inconvenience of the walking route; it is not realistic to expect that those bringing young children to the proposed day nursery, or even staff, would often travel to the appeal site by bus. Moreover, in the absence of evidence to the contrary it seems likely that many local residents likely to use the day nurse would live further away than the bus stops.
16. There are a number of Public Right of Way nearby. Of these Nos 038/039 would appear to be the most convenient for those using the bus stops or coming from Little Hadham. However, this is unsurfaced, unlit and crosses open agricultural land. Accordingly it is likely to be less than attractive particularly for those, either walking or cycling, when accompanied by one or more small children. There are no proposals to improve the local walking/cycling routes.
17. Taking all the above into account I conclude, that even with the provision of cycle parking, showers and changing facilities, there would be insufficient likelihood of users of the day nursery travelling to the proposed day nursery by public transport, cycling or walking to carry much weight in favour of the proposal.
18. The submitted Travel Plan proposes the use of the appellant's minibus to operate a shuttle service between Northgate Primary School as a pick-up point, where the appellant already has a childcare base, and the appeal site. The review by the Department for Education's 'Childcare and Early Years Survey of Parents in England, 2018 indicates about two thirds of pre-school children received childcare for work or study related reasons and that convenience is a common factor for choosing a particular childcare facility.

¹ The Statement of Case indicates 800m whereas the Travel Plan indicates 900m

19. I acknowledge that some trips would be likely to be shared by parents dropping children at the Primary School and accessing the shuttle bus. However, it seems likely to me that those who work or study and wish to access day care facilities may well have very different start/finish hours and different work/study locations. This would be likely to make accessing a shuttle bus at a fixed time and location impractical for those with young children and particularly with very young children. Similarly car sharing would be highly dependent on home and work locations and hours of childcare required and would appear somewhat impractical whether or not inducements to car share were to be offered. There is little information as to how many customers would be able to take advantage of the shuttle bus. Despite the proposed arrangements for monitoring the Travel Plan it is not entirely clear as to what would be likely to happen if the customer base changed.
20. Parking space would be available and two electric vehicle charging points would be provided to meet the requirements of Policy TRA3 of the DP. Such charging points could be a benefit for those staff who have an electric vehicle. However, it seems unlikely to me that those dropping off and collecting very young children at the beginning and end of their working/studying day would be present at the appeal site for long enough to make much practical use of such charging points.
21. The proposal would provide a social and educational facility that would support the well-being of the local community. Policies CFLR7 and CFLR10 of the DP supports the provision of adequate and appropriately located community facilities served by a choice of sustainable travel options where they do not conflict with other policies within the DP. I acknowledge that the appeal site would be in a convenient location in relation to the existing business office. However, there is little evidence before me to indicate that there is a particular need for a day nursery as proposed in this particular location, or that any such need could not be met in locations which are better served by alternatives to the private car.
22. For the above reasons I give limited weight to the likely use of public transport, walking, cycling or the proposed Travel Plan arrangements as realistic alternatives to dependency on the private vehicle for the use of the site as a day nursery. I therefore consider the degree of accessibility by sustainable forms of transport to be relatively poor in this case. Accordingly I conclude the appeal site is not in a location which enables sustainable journeys to a day nursery to be made.
23. For the reasons set out above I conclude the appeal site is not a suitable location for a day nursery having regard to its rural area location; local and national policies for employment and community facilities development in such areas; and the relatively poor accessibility by sustainable forms of transport. The proposal would conflict with Policies GBR2, ED2, CFLR7, CFLR10, TRA1 and TRA2 of the DP and those principles of the Framework that seek to ensure that development is located where there is safe and suitable access for all and appropriate opportunities for sustainable transport modes.

Other Matters

24. The appellant and her business have a good reputation for providing childcare and I have no doubt that the proposed day nursery would operate at similar high standards. However, there may well be other, less harmful, ways in which

childcare could be delivered so this does not lead me to any different conclusions.

25. The appeal proposal is a re-submission with additional information/proposals intended to address the reason for refusal of the planning application Ref 3/19/0682/FUL. However, this matter does not lead me to any different conclusions in respect of the accessibility of the site.

Planning Balance and Conclusion

26. I have concluded that location the appeal site is not a suitable location for a day nursery having regard to its Rural Area location; local and national policies for employment and community facilities development in such areas and the degree of accessibility by sustainable forms of transport. The proposal would provide community facilities and employment and would make use of existing buildings. These matters weigh in favour of the proposal but would not outweigh the poor accessibility of the site by sustainable modes of transport and the conflict with the development plan in this respect. In failing to fully comply with Policies GBR2, ED2, CFLR7, CFLR10, TRA1 and TRA2 of the DP the proposal cannot comply with the development plan taken as a whole. I find no material considerations weighing in favour of the proposal that would outweigh this conflict. The appeal should be dismissed.

S Harley

INSPECTOR



Appeal Decision

Site visit made on 17 February 2020

by **S Harley BSc(Hons) MPhil MRTPI ARICS**

an Inspector appointed by the Secretary of State

Decision date: 21st February 2020

Appeal Ref: APP/J1915/W/19/3240955

Land adjacent to 3A Benningfield Road, Widford, SG12 8RD

- 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 Woodley against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1483/FUL, dated 10 July 2019, was refused by notice dated 10 October 2019.
 - The development proposed is two storey dwelling and additional crossover for existing dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area, taking particular account of the size of the dwelling and the width of the site; and the effect of the proposal on the living conditions of the host property No 3A Benningfield Road.

Reasons

Character and appearance

3. Benningfield is a cul-de-sac of mainly semi-detached or terraced houses and bungalows. No 3A was created as a result of the sub-division of No 3 Benningfield Road. The appeal site is part of the garden to the side of the host property No 3A Benningfield Road. It is located within the built-up area of Widford and there is no objection in principle to a new dwelling provided all other planning policies and material considerations are satisfied.
4. Due to the available garden width at the side of the house at No 3A, the proposed dwelling would be a much narrower building block than the other buildings on Benningfield Road. As a detached dwelling it would appear disproportionately tall and narrow compared to other building blocks. It would appear cramped and contrived in such close proximity to No 3A and accordingly would be harmful to the character and appearance of the area.
5. Two side by side parking spaces would be provided in front of No 3A and two tandem spaces would be provided in front of the proposed house. Due to the restricted amount of space retained at the front of No 3A its parking area would protrude to the side such that the shared access path to the rear of the

properties would be off-set. A retaining wall is proposed on the southern boundary of the appeal site as the site slopes. However, it is not clear from the submitted plan, which is drawn at a relatively small scale and has no dimensions marked on, that sufficient width is available to satisfactorily accommodate these together with a satisfactory shared access path for occupiers of two dwellings. As a result I cannot confidently conclude that the proposal would not appear cramped and contrived.

6. For the reasons set out above I conclude that the proposal would amount to over-development of the site. The detailed design of the proposed house would not be inappropriate in this instance. However, the proposal would have a harmful effect on the character and appearance of the area because of the size of the proposed building and the cramped arrangements for access and parking in relation to the available width of the site. Accordingly the proposal would conflict with those aspects of Policies VILL2 and DES4 of the East Herts District Plan 2018 (the DP) which seek to protect and enhance the character and appearance of the local area.

Living Conditions

7. The side wall of the proposed house would be about one metre away from the main door and windows in the side wall of the host property. The proposed house would therefore appear unacceptably over-dominating and intrusive, creating gloomy conditions when viewed from the windows and from the access path to the front door. This reduction in outlook would be harmful to the living conditions of existing and future occupiers of No 3A.
8. The submitted plans show that the main door to No 3A could be re-located to the front elevation. The windows in the side elevation are either secondary windows or to the stairs/hall and could be removed without significant detriment to the internal living conditions. However, the house at No 3A is not included in the appeal site boundary. In the absence of a mechanism to ensure the alterations to 3A would take place I cannot confidently conclude that the proposal would not have a harmful effect on the living conditions of its occupiers. I therefore conclude that the proposal would conflict with those parts of Policies VILL2 and DES4 of the DP which seek to avoid a detrimental impact on the living conditions of occupiers of neighbouring houses and land.

Conclusion

9. The proposal would provide an additional two bedroom dwelling of sufficient size to meet the Technical Standards for a four person two bedroom house. However, I have concluded it would have a harmful effect on the character and appearance of the area and I have been unable to conclude it would not have a harmful effect on the living conditions of occupiers of No 3A. In failing to comply with Policies VILL2 and DES4 of the DP in these respects the proposal cannot comply with the development plan taken as a whole. The appeal is dismissed.

S Harley

INSPECTOR



Appeal Decision

Site visit made on 10 March 2020

by **J E Jolly BA (Hons) MA MSc CIH MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 March 2020

Appeal Ref: APP/J1915/Z/19/3241517

7 Potter Street, Bishops' Stortford CM23 3UH

- 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 Mr Christopher Benzing against the decision of East Herts Council.
 - The application Ref 3/19/1624/ADV, dated 5 August 2019, was refused by notice dated 23 October 2019.
 - The advertisement proposed is a new shopfront illumination fascia and projecting sign.
-

Decision

1. The appeal is allowed and express consent is granted for a new shopfront illumination fascia and projecting sign as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional condition: The signs hereby approved shall be illuminated only during the hours of operation of the premises.

Main Issue

2. The main issue is the effect of the illuminated signs on the visual amenity of the area.

Reasons

3. The appeal property lies within Bishops Stortford town centre to one end of Potter Street, and within the Bishop's Stortford Conservation area. Potter Street is a traditional style 'high street' with shops and similar uses at ground-floor level that face directly onto the pavement. The 'high street' has a range of building types that include external signage and fascia in various materials, design styles, sizes and heights to the shop frontage.
4. I noted at my site visit that some, but not all of the external signs associated with shops and businesses along Potter Street are illuminated. Indeed, the variety of signs contributes to the overall appearance of the street-scene, which in combination provide an attractive and inviting shopping area.
5. The 'Hotel Chocolat' branded illuminated signs have already been installed on site, and include a fascia display as well as a modest protruding sign. I note that the level of luminance has been reduced from that originally installed, and that the lettering is traditional in style. Indeed, the white coloured signage is backlit against a black background and is a subtle addition in this specific location that accords with the appearance of the nearby area.

6. Furthermore, I observed a number of other shops and businesses nearby such as 'Specsavers' and 'Boots' with similarly lit signs that do not appear unusual in this 'high street' location.
7. Therefore, having viewed the signs from a number of locations along Potter Street, I am satisfied that they do not stand out as incongruous, overly dominant or as unduly prominent features in relation to the building or the wider street-scene. Accordingly, they have not caused any significant harm to the visual amenity of the area and the character and appearance of the conservation area has been preserved. Moreover, there is no evidence before me that suggests that the signs would be of detriment to public safety in the surrounding area.
8. As such the signs accord with Policies DES6, HA4 and HA6 of the East Herts District Plan 2018, which says amongst other things, that advertisements or signs, displayed on or close to a building, must respect the character and appearance of the environment, and be discreet in size and of a minimum level.
9. For similar reasons, the proposal meets the aims of Paragraph 132 of the National Planning Policy Framework which requires that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

Conditions

10. I have imposed the five standard conditions set out in Schedule 2 of the 2007 Regulations. In addition to these, and in the interests of amenity, I have imposed a condition that limits the hours that the sign can be illuminated to accord with the hours of operation of the premises.

Conclusion

11. For the reasons given above the appeal is allowed.

J E JOLLY

INSPECTOR



Appeal Decision

Site visit made on 10 March 2020

by **T A Wheeler BSc (Hons) T&RP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

Appeal Ref: APP/J1915/W/19/3242724

The Old Nurseries, Widford Road, Much Hadham SG10 8AT

- 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 Nalder against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1658/FUL, dated 8 August 2019, was refused by notice dated 10 October 2019.
 - The development proposed is: Demolition of existing detached garage and erection of new four bedroom dwelling and new vehicle crossover.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing detached garage and erection of new four bedroom dwelling and new vehicle crossover at The Old Nurseries, Widford Road, Much Hadham SG10 8AT, in accordance with the terms of the application, Ref 3/19/1658/FUL dated 8 August 2019, subject to the conditions in the attached schedule.

Main Issue

2. The appeal site (the site) is located within the Much Hadham Conservation Area, on land to the rear of The Old Nurseries, a Grade II Listed Building. The Council considers that the proposal would not affect the character or appearance of the Conservation Area or the setting of the Listed Building and I see no reason to take a different view.
3. In light of the above, the main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The site has been the subject of 2 previous applications for a detached dwelling and on both occasions planning permission was granted¹. It is not in dispute that the later of these 2 permissions constitutes a fallback position which represents more than theoretical possibility in the event of the appeal proposal not proceeding.
5. The proposal is for a 2 storey detached dwelling with the first floor accommodation located within the roof, with 2 projecting gables and single pitched roof dormer to the front, and matching gables and 2 smaller dormers

¹ Local Planning Authority references 3/17/2511/FUL dated 8 March 2018 and 3/19/0671 dated 28 May 2019

to rear. The proposal differs from that approved under the 2019 consent in that the central part of the dwelling would be made deeper, providing an enlarged hall, and dining area at ground floor and an increased first floor landing area and laundry room. Within the front roof slope there would be a single dormer above a central front door. Under the previous proposal there would be 2 small dormers in the front facing roof and an offset front door.

6. As a consequence of the increased depth of the proposal within the central area of the dwelling, an area of flat roof with skylight would be formed. In the previously approved scheme, the central roofs would meet at the ridge. The area of flat roof would be recessed behind a low parapet and would not be visible from ground level, including from Widford Road which is at a higher level than the site.
7. The proposal also includes a single storey side element to provide a boot room and utility room, not included on the previously approved plans. The 'extension' would have a lower pitch of roof than the main roof slopes. There are some other detailed changes to the elevations, including the replacement of full length doors across the ground floor of one gable in the front elevation with a 4 casement window, and to the rear elevation proposed full height glazing of the gables would be replaced with vertical tiling at eaves level and Juliette balconies. A basement storey approved under the previous approval would be omitted.
8. The focal point of the dispute is whether the design changes result in a scale, mass and form of development that would be harmful to the character and appearance of the area.
9. The site is set well back from Widford Road. To the rear, the site adjoins open countryside but there is an intervening belt of woodland and it is not suggested that the proposal would be prominent from local footpaths or other viewpoints in the surrounding area. However, the lack of prominence would not be good reason to allow development which represented poor design.
10. Given the size of the site, the proposed dwelling would not appear cramped, and the design would be of traditional appearance with brick walls and tiled roofs. Despite the use of an area of flat roof the dwelling would, visually, present pitched roofs to all sides. In terms of fenestration, the design would be an improvement on the scheme approved in 2019 due to the removal of the full length glass doors from the ground floor front elevation, and the articulation of the glazing to the rear elevation gables. The raising of the eaves level in the centre section of the front elevation would also achieve greater continuity in the design.
11. It has been suggested that the proposed single storey ground floor element would result in a poor appearance however it is not unusual to have such a transition between roof pitches and there is nothing inherently unattractive about that aspect of what is proposed. It has also been suggested that the side 'extension' would result in the proposal having greater impact on the rural area, however it would not project beyond the main rear elevation of the proposal nor that of the neighbouring property, therefore would not lead to further encroachment.
12. The Council suggests that the previously approved design benefitted from the inclusion of subservient elements which would help to break up the scale and

massing. In the case of the second application, the centre part of the dwelling would have a greater setback than under the proposal, although the ridge height would be the same as the 2 gabled wings. Whilst to a marginal extent the setback might reduce the perceived scale and massing of the building, for the reasons given the proposal would achieve an overall improved design with a more traditional Arts and Crafts character than that approved in 2019.

13. The Parish Council has suggested that in seeking a further increase in the footprint of the dwelling the proposal represents 'planning creep' and would not have been granted permission had it been submitted in the first instance. That may or may not be the case. However, for the reasons given the appeal proposal would achieve a well-designed dwelling, in scale and character with its surroundings. I also give some weight to the fallback position although notwithstanding the currently approved scheme the proposal represents an acceptable design solution for the site.
14. I therefore conclude that the proposed dwelling would not cause harm to the character and appearance of the area, and would conform to Policy DES4 and Policy VILL1 of the East Herts District Plan October 2018 (the District Plan) which amongst other things require that proposals should be of an appropriate scale, well designed and in keeping with the character of the village and promote local distinctiveness.

Conditions

15. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Planning Practice Guidance. I find the majority to be reasonable and necessary in the circumstances of this case and some have been edited for consistency and clarity.
16. For certainty I attach the standard planning condition limiting the period of the consent to 3 years and a condition requiring the development to be carried out in accordance with the approved plans.
17. The Council has suggested that a number of details including materials have already been subject to approval under the discharge of conditions relating to the previous planning permissions. With the exception of the plan showing details of the access and parking provision and external works² I have not been provided with these details. However, the proposal is accompanied by a plan showing the external works and I attach conditions requiring details of the access arrangements, boundary treatments and landscaping to be completed in accordance with these plans, in the interests of the visual appearance of the development.
18. I also attach a condition requiring the external materials, including facing brickwork, roof tiles, and hung tiles to be agreed with the Local Planning Authority.
19. The Council has suggested that arrangements are to be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway. The condition was recommended by the Highways Authority as part of a condition relating to the approval of the surfacing of the access and parking area for which reason I deal with the matter within that condition.

² Plan reference 12633-PO33-B

20. It appeared to me that the new access and improved visibility splays, and parking to serve The Old Nurseries have already been provided. However, for the avoidance of any doubt I attach a condition requiring these works to be completed, and the closure of the existing access to be undertaken prior to the occupation of the approved dwelling.
21. The Council's Environmental Health Officer (EHO) has advised that prior to the development proceeding, the site should be subject to investigation for ground contamination. However, it has not been suggested that the site has previously been in uses which could lead to contamination and therefore I see no need for such conditions.
22. The EHO has also recommended that the hours when construction activity involving plant and machinery is undertaken should be subject to control, in order to limit noise and disturbance to the occupiers of neighbouring dwellings. I agree that such a condition is necessary and have used the hours suggested by the EHO.

Conclusion

23. For the above reasons and taking account of other matters raised, the appeal is allowed.

Tim Wheeler

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan, site plan, proposed elevations, proposed floor plans, roof plan, indicative section – 13656-P003-D; Proposed site plan and external works – 13656-P002-A.
- 3) Prior to occupation of the proposed dwelling, boundary treatments shall be implemented in accordance with the detail, as shown on plan 13656-P002-A and thereafter maintained for the lifetime of the development.
- 4) Hard and soft landscaping shall be implemented in accordance with the details shown on plan 13656-P002-A. The works approved shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development whichever is the sooner. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) The external materials to be used in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to the application of any such materials on the site. The development shall be carried out in accordance with the approved details.
- 6) Before first occupation of the approved development, the access arrangement, including visibility splays, onto Widford Road shall be completed in accordance with plan 13656-P002-A, and thereafter shall be maintained for the lifetime of the development.
- 7) Before the dwelling hereby permitted is occupied all on site parking and vehicle turning areas shown on plan 13656-P002-A shall be provided, and surfaced in a manner to be agreed in writing with the Local Planning Authority, so as to ensure satisfactory parking and turning of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.
- 8) Occupation of the dwelling hereby permitted shall not take place until the existing vehicle access has been closed and the kerbs reinstated to the satisfaction of the Local Planning Authority.
- 9) In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the site before 0730 hours Mondays to Saturdays, nor after 1800 hours on weekdays and 1300hrs on Saturdays, and not at any time on Sundays or Bank Holidays.

ENDS



Appeal Decision

Site visit made on 28 January 2020

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **Wednesday, 19 February 2020**

Appeal Ref: APP/J1915/D/19/3241636

Folly Cottage, Bury Green, Little Hadham SG11 2ES

- 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 Gay against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1726/FUL, dated 21 August 2019, was refused by notice dated 16 October 2019.
 - The development proposed is the erection of a detached garage and associated hardstanding.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

3. The appeal site consists of a detached dwelling located within the small settlement of Bury Green and is located within the Metropolitan Green Belt. The proposed development would be a detached garage, sited on part of the garden area to the west with associated hardstanding. Mature trees and hedges screen the site to the north and west with open countryside to the south and east.

Inappropriate development in the Green Belt

4. The Framework, 2019 sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 145 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions. The Framework does not make any specific

reference to ancillary buildings, but the main parties agree that the proposal could be regarded as a proposed extension to the dwelling as it forms 'a normal domestic adjunct'.

5. The proposed development would be a domestic garage of substantial size which would be located within the garden area to the west of the dwelling. There would be no physical attachment between the proposal and that of the existing dwelling but there would be a visual and functional relationship between them and therefore the garage can be considered to be an extension to the original dwelling. In coming to this view, I have also had regard to the previous appeal decision¹.
6. Policy GBR1 of the East Herts District Plan, 2018 (EHDP) deals with the Metropolitan Green Belt and advises that planning applications will be considered in line with the provisions of the Framework.
7. Therefore, as outbuildings are buildings paragraph 145 c) would logically apply to the appeal proposal where an extension or alteration to a building is not inappropriate development provided it does not result in disproportionate additions over and above the size of the original building.
8. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
9. The Framework does not define the term of disproportionate. The original dwelling has previously been extended, and the proposed development would add further built development at the site and alone would substantially increase the floor space of the original dwelling. The Council advise, in total with the proposed garage this would be an increase of some 208% above the original dwelling. Therefore, in that regard, the proposed development would not be of a limited scale or a proportionate addition when comparing to the original dwelling.
10. For the reasons given above, I conclude that the proposed development would be inappropriate development in the Green Belt as a result of a disproportionate addition over and above the size of the original dwelling. As such, it would be contrary to Policy GBR1 of the EHDP, 2018 and the Framework, 2019.

Effect on openness

11. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics thereof being their openness and permanence. The physical presence of built forms may affect openness, which can also have a visual element.
12. The proposed garage would be built on garden land to the west of the existing dwelling, it would result in additional built development and the loss of this garden area which would unavoidably result in a reduction of openness of the site.

¹ APP/J1915/D/16/3152784

13. Furthermore, the appeal site is in a slightly elevated position in relation to the surrounding landscape to the south and east. This combined with the open character of the surrounding countryside, particularly that the appeal site can be viewed from along the bridleway means that the proposed garage would be clearly seen from both nearby and distant views. Despite, the proposed copse planting the proposed garage, given its substantial size, massing and prominent position would still be readily visible within the landscape. As a result, it would have a moderate detrimental effect on the open character of the area and would cause a reduction in the openness of the Green Belt.
14. Therefore, I conclude that the proposed development would not preserve, and would have a harmful effect on, the openness of the Green Belt. It would be contrary to Policy GBR1 of the EHDP, 2018 and the Framework, 2019, which aim to protect the openness of the Green Belt.

Other Considerations

15. The appellant has provided evidence that an extant Lawful Development Certificate (LDC) was granted by the Council for a proposed garage², and which would be sited within the garden, directly to the south of the dwelling and would be the same dimensions and materials of which is proposed under this appeal proposal.
16. The appellant asserts that there is a in-principle support for the proposed garage in this location, as the LDC provides a precedent for this type of development in this location and the proposed development would be far less prominent, when viewing from the surrounding context. Furthermore, the appellant contends that the permitted development fallback position of the development granted as part of the LDC is a consideration which equates to very special circumstances that justifies the proposed development within the Green Belt.
17. I acknowledge that, in comparison to the garage granted under the LDC, the alternative location of the proposed development would be desirable, it would be positioned further away from the existing dwelling but would be located closer to the existing copse and further plant coppice-style native trees is proposed, which would partly screen the proposed development. The garage granted under the LDC, would be positioned in-line with the existing dwelling with less screening, although detached it would still be seen more readily in conjunction against the built form of the dwelling, but positioned more prominently in the site. Therefore, the fallback position advanced would have a greater impact on openness.
18. However, no substantive evidence has been provided to persuade me that the appellant would genuinely pursue this fallback option if the appeal failed. Alternatively, if the appeal were to be allowed, in the absence of greater detail it might be the case that such permitted development could potentially be built alongside the appeal development. Therefore, the potential cumulative impact of such development would have a greater adverse effect on the Green Belt.
19. The appellant also contends that there is historical evidence of existing outbuildings at the front elevation of the building, in a similar location where the proposed garage is to be sited and of a similar scale and massing. Whilst

² App Ref: 3/18/1139/CLP

this may be the case, the appellants evidence is inconclusive, particularly that the only reference is a photograph of a conveyance plan from 1969. Furthermore, if there is no building currently existing on site it cannot be assessed whether or not the proposed replacement building would be materially larger than the existing building to be replaced (the baseline), and paragraph 145 d) of the Framework cannot apply as there is no building to be replaced³. Therefore, I can only give this minimal weight.

20. I understand other developments have been granted planning permission by the Council in the area. I have been provided with limited details of them, although there may be some similarities. I also note that there were no objections to the proposed development by local residents or the Council, that it would not detract from the appearance of the existing dwelling or cause harm to the living conditions of the occupiers of nearby properties. However, the absence of harm in these respects weighs neutrally and does not amount to a consideration in support of the appeal.

Conclusion

21. The appeal scheme is inappropriate development in the Green Belt. I have also found that it would not preserve, and would have a significantly harmful effect on, the openness of the Green Belt. Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
22. Having regard to the other considerations cited in support of the proposal, particularly the extant LDC, I consider that, either individually or cumulatively, they do not clearly outweigh the harm to the Green Belt and any of the other harm, I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
23. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
24. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR

³ Athlone House Ltd v SSCLG [2015] EWHC 3524 (Admin)



Appeal Decision

Site visit made on 28 January 2020

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 10 March 2020

Appeal Ref: APP/J1915/W/19/3241810

Former Clay and Gravel Quarry, Quarry End Manor, St Marys Lane, Hertingfordbury, Hertford SG14 2LE

- 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 Nigel Brunt against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1857/FUL, dated 11 September 2019, was refused by notice dated 6 November 2019.
 - The development proposed is the erection of house including restoration of former quarry and landscaping including the creation of a nature habitat.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and development plan policies;
 - The effect of the proposal on the openness of the Green Belt; and
 - If the development is inappropriate within the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

3. The proposed development is for one dwelling within a former quarry and is sited on the edge but outside of the village of Hertingfordbury, whilst located within the Metropolitan Green Belt. Policy GBR1 of the East Herts District Plan, 2018 (EHDP) deals with the Metropolitan Green Belt and advises that planning applications will be considered in line with the provisions of the National Planning Policy Framework (the Framework).
4. The Framework sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 145 of the Framework sets out that the construction of new buildings in the Green Belt

should be regarded as inappropriate development, unless it meets one or more of a list of exceptions. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5. The exceptions are set out in paragraph 145 of the Framework, and include (e) limited infilling in villages and (g) limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in a continuing use which would not have a greater impact on the openness of the Green Belt than the existing development or would not cause substantial harm to the openness of the Green Belt where development would contribute to meeting an identified affordable housing need. There is no definition in the Framework or the EHDP of limited infilling and therefore, it is a matter of planning judgement for the decision-maker.
6. The appeal site is accessed from St Mary's Lane along an elevated block paved road, which is also a bridleway leading to the site entrance with the track continuing beyond the site. There are existing residential properties nearby, particularly close to the site access and along St Mary's Lane which may have had a previous historic association with the quarry. However, these are some distance away and not directly adjacent to the site itself. The proposed dwelling would be fairly central within the site and the curtilage of the dwelling would take up around 5% of the total quarry. The appeal site is clearly set back and away from St Mary's Lane and the existing residential development adjoining that road.
7. Although not within an isolated location due to the presence of the existing dwellings close to the access onto St Mary's Lane, having had regard to the High Court judgement¹ regarding paragraph 55 (now paragraph 79) of the Framework, this physical location would not result in a new isolated home that the Framework seeks to avoid. However, it would not fill any existing clear gap between the development or nearby properties that form part of the village. As such, I consider that the development would not be limited infilling in a village.
8. The appeal site is a former quarry that has been derelict for some time and not restored. It was subsequently used for the tipping of waste by local authorities. The appellant contends that the appeal site amounts to previously developed land (PDL) as there are no effective provisions for restoration of the appeal site through development control procedures following quarrying. In 2013, a previous application² at the site was granted on appeal³ for an internal service road within the site and associated re-grading of the deposited material of which conditions have been discharged. A further application⁴ was granted in 2015 at the site to regrade the land including the importation of inert fill, and restoration to agricultural use and the erection of an agricultural barn, of which the appellant confirms this has commenced.
9. The Framework supports development that makes efficient use of land, through the definition of PDL⁵, which includes land occupied by a permanent structure including the curtilage of developed land, however this does not go without

¹ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)

² Planning Application Reference: 3/12/0272/FP

³ APP/31915/A/12/2180792

⁴ Planning Application Reference: 3/13/1690/FP

⁵ Annex 2 of the Framework refers to the definition of previously developed land

being caveated. It excludes land that is or was last occupied by agricultural buildings, and land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures.

10. The evidence before me sets out that previous planning permissions at the site have included decontamination, restoration and remediation, with the principal aim of following remediation to permit an agricultural after-use. The appellant states 'the current owner has secured and improved the site to a degree' and previous schemes have commenced, but construction finance for the restoration could only be obtained against a dwelling use and not an agricultural use. I have no substantive evidence before me that the development management procedures would only relate to the closure of the quarry itself, rather than a subsequent planning permission for a different use and/or development or where the restoration may be less than certain coming forward. Therefore, the appeal site would not meet the definition of the Framework, and as such I do not consider that the site amounts to PDL.
11. In arriving at this conclusion, I have taken into account the previous appeal decision⁶. In paragraph 8 of that decision, the Inspector sets out that the appellant indicates that the original permission included conditions relating to the restoration of the site and that it would not meet the definition of previously developed land, I have no evidence to the contrary. Furthermore, the Inspector found that the dwelling would be inappropriate development in the Green Belt. As such, I have no reason to disagree with their findings, particularly as the case before me has similarities.
12. For the reasons given above, I conclude the proposal would be contrary to Policy GBR1 of the EHDP. Furthermore, it does not meet any exception in that of the Framework, with reference to paragraphs 145(e) and 145(g), as it would not form limited infilling in villages or amount to PDL.
13. As the appeal scheme would not meet any of the exceptions in paragraph 145 of the Framework, it would constitute inappropriate development in the Green Belt.

Openness

14. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence. The physical presence of built forms may affect openness, which can also have a visual element.
15. The proposed dwelling would be occupied within the central area of the former quarry pit, on land which is not occupied by any built form. The erection of a sizeable detached dwelling over three floors with outdoor terracing, new access, new parking, new hardstanding and domestic curtilage with associated paraphernalia would have a significant adverse impact on openness. Whilst the site is immediately enclosed by fencing and steep wooded embankments, including trees subject to a Tree Preservation Order, and I acknowledge the Landscape & Visual Impact Assessment⁷, it would still be visible from public views further along the bridleway and the site entrance. Given the proposal is

⁶ APP/J1915/W/18/3210401

⁷ Landscape & Visual Impact Assessment: Elizabeth Greenwood: 771.17

for built form of significant scale, bulk and massing, it would be clearly discernible in those views even if, supplementary landscaping was to be provided and it were to mature over time.

16. For the above reasons, the proposed development would harm the openness of the Green Belt in both visual and spatial terms. The scheme would therefore be contrary to the main aims of Green Belt policy at local and national levels, which I have set out above.

Other Considerations

17. The appellant contends that the provision of a self-build dwelling is a positive benefit in favour of the scheme. The Government within the Framework and Planning Policy Guidance (PPG) support such schemes to increase this type of development and places a legal duty on local planning authorities to enable such development. The definition of 'self-build and custom-build housing' is set out in the Framework⁸, and is based on the legal definitions contained in section 1(A1) and (A2) within the Self-build and Custom Housebuilding Act 2015 (as amended).
18. The appellant has also provided correspondence⁹ which suggest that the Council's self-build register has current unmet needs. Nonetheless, as set out in the PPG¹⁰ an Authority has 3 years to demonstrate that sufficient suitable permissions have been granted to meet a base period's demand. The time allowed to comply with the duty begins immediately after the end of the base period¹¹.
19. Notwithstanding the above, there is no evidence before me to suggest that the proposal would comply with the relevant legal definitions of self-building housing, or that it would be secured to meet a currently identified Council need. Furthermore, it does not appear that the appellant has applied or has confirmed their eligibility to be included on the Council's self-build register or the site is a self-build plot. As such, I can afford little weight to any perceived benefit of the proposal in that respect.
20. I have also had regard to the appeal decisions which have been brought to my attention, including the Woodville appeal decision¹², but the individual circumstances of that case differ from the proposals before me, including that it was not within the Green Belt, and was for 30 dwellings, unlike the one residential unit before me. In any event, the appeal is necessarily determined on its individual merits on the basis of the evidence before me.
21. There is an extant planning permission for an agricultural barn on the site. The appellant indicates this would be foregone and part of the proposed internal track would not be constructed. I acknowledge that the appeal scheme would be in a similar location and would have a smaller footprint and not exceed the overall scale of development of the previous scheme. Nonetheless, the appeal proposal would include an access drive, parking and terraces along the dwelling itself as well as associated domestic paraphernalia. The Framework at paragraph 145 (a) identifies buildings for agriculture as an exception to

⁸ Annex 2 of the Framework refers to the definition of a 'self-build and custom-build housing'.

⁹ Correspondence with LPA – Quarry Self Build Emails 1, 2, and 3: Dated 28/10/2019 & 29/10/2019

¹⁰ Paragraph: 023 Reference ID: 57-023-201760728: Revision date: 28 07 2017

¹¹ The Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016

¹² APP/G2435/W/18/3214451

- inappropriate development and therefore do not require an assessment of their impact on openness within the Green Belt. As such, I attach little weight to the fallback position.
22. It was evident at the time of my site visit that the quarry sides have suffered subsidence, bank collapses and there are continued works at the site to stabilise the quarry embankments. It is clear that elements of this were included in previous planning permissions and could therefore be achieved without the proposed dwelling. Moreover, I have no substantive evidence which would lead me to consider that the bridleway is unsafe, or the site has security issues or in any case, that the resolution of such could only be secured through the proposed development.
23. The appellant indicates that substantial costs are involved for improvements and restoration, and financial cost implications have been provided¹³. I acknowledge the appellants assertions that wider benefits are the restoration of the despoiled and degraded land and the letters of support from interested parties that have been provided in that respect. Based on the evidence and my own observations, the restoration works would be of overall benefit to the site and therefore, I attach moderate weight to such matters.
24. I note that the Council have expressed additional concerns about the design and layout of the proposed development, these points were not raised as reasons for refusal. I acknowledge that the site has not been fully restored but overall it is relatively concealed from the wider rural area and is not a green field. The provision of supplementary landscaping and management would enhance the appearance of the site and is clearly identified to be provided as part of previous schemes without the proposed dwelling. In considering the contemporary design and materials, it would have a neutral effect in the location proposed and therefore, does not weigh in favour or against the proposal in this case.
25. The matters of contamination were addressed by the Council's environmental health officer and the Environment Agency. The Council confirm that the reason for refusal on the previous application has been overcome through investigations carried out at the site. Although, the Council has accepted this information to be adequate provided suitable worded conditions are imposed, this does not outweigh the harm I have already identified. I, therefore, consider that the absence of harm in that respect and in terms of other planning matters such as flood risk/drainage, landscaping, parking and access and biodiversity matters which could be addressed by conditions, are a neutral factor.
26. The proposed development would contribute to the supply and mix of housing by providing one market dwelling in a rural area. However, one house would be a relatively small contribution. Some economic benefits would arise from, for example, the purchase of building materials during the construction period and future occupiers would also contribute to the local economy and towards the viability of local services. This however would be minimal due to the quantum of development proposed. Similarly, any benefits arising from the sustainable construction methods of the dwelling including water and energy efficiency, given the modest scale of the development, such benefits would be minimal, and I attach limited weight.

¹³ Feasibility & Costs Estimate: ACA Surveyors, Ref: ac/GEN dated 17 May 2017

Planning Balance and Conclusion

27. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal would reduce the Green Belt's openness, which gives rise to additional harm. In each case, these harms render the appeal scheme contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.
28. Against this, the other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the substantial weight to be given to the harm to the Green Belt I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
29. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
30. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR



Appeal Decision

Site visit made on 10 March 2020

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 27th March 2020

Appeal Ref: APP/J1915/D/20/3245007

6 Trimms Green, Sawbridgeworth CM21 0LX

- 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 Leakey against the decision of East Herts Council.
 - The application Ref 3/19/1980/HH, dated 26 September 2019, was refused by notice dated 18 November 2019.
 - The development proposed is a first floor side extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a first floor side extension at 6 Trimms Green, Sawbridgeworth CM21 0LX, in accordance with the terms of the application, Ref 3/19/1980/HH dated 26 September 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: A00125-001 and A00125-002.
 - 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.

Preliminary Matter

2. The description of development in the heading above has been taken from the planning application form, which differs from that on the Council's decision notice. In Part E of the appeal form it is stated that the description of development has not changed and neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

3. The main parties have agreed that the proposal would represent inappropriate development in the Green Belt as defined in development plan policy and the National Planning Policy Framework (2019) ("the Framework"). I concur with that position.
4. In view of this, the main issues are:
 - The effect of the proposal on the openness of the Green Belt; and

- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the scheme.

Reasons

Effect of the proposal on openness

5. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 144 of the Framework sets out that substantial weight should be given to any harm to the Green Belt. The assessment of openness has both a spatial and a visual aspect.
6. The host dwelling currently has a single storey side extension. Whilst the proposed first floor extension above this would not increase the footprint of the building, its height and volume would be increased by a modest degree. Therefore the proposal would have a greater impact on the openness of the Green Belt in spatial terms than the existing development.
7. Whilst the appeal site is partially screened by trees and a garage which lies in front of it, glimpses over it and out to open sky are available from Parsonage Lane. The construction of a first floor extension would result in built development where there is presently none, and would add to the overall bulk of the property. Thus, it would inevitably lead to the loss of this openness.
8. However, the existing views of open sky are limited due to the modest footprint of the side extension and to the presence of mature trees in the adjacent garden. Whilst the development would be a permanent physical change, its scale would be modest. Therefore there would be only a modest loss of openness. The proposal would consequently result in limited harm to the openness of the Green Belt.
9. I therefore conclude that the scheme is inappropriate development in the Green Belt which fails to preserve its openness. Thus, the proposal conflicts with Policy GBR1 of the East Herts District Plan (2018), which states that proposals within the Green Belt will be considered in line with the provisions of the Framework. Further conflict exists with the provisions of the Framework with regard to Green Belts.

Other Considerations and the Green Belt Balance

10. I have found that the appeal proposal is inappropriate development in the Green Belt, which would result in limited harm to the openness of the Green Belt. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt, in accordance with paragraph 144 of the Framework. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
11. I note the evidence submitted by the appellants concerning the health needs of a family member. The proposal would evidently meet the identified needs in an appropriate manner. This is uncontested by the Council. Furthermore, I have had regard to the Planning Practice Guidance, which attaches substantial importance to the provision of appropriate housing for people with such needs.

The proposed extension has a logical position and a modest scale, which represents a reduction of the scale of a previously dismissed appeal¹ proposal with similar aims. It appears to be the minimum scale which is reasonably necessary to achieve the anticipated benefits. In view of these factors, I attach substantial weight to the proposal's ability to meet the health needs of a family member as a consideration.

12. Finally, as there is potential for my decision to affect a person with a protected characteristic, I must have due regard to the Public Sector Equality Duty contained in the Equality Act 2010. I consider that the proposal would result in a significant improvement in quality of life for the family member concerned. I therefore give considerable weight to the positive equality impacts of the proposal.
13. Accordingly, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

Conditions

14. I have imposed a condition specifying the relevant drawings as this provides certainty.
15. A condition in respect of materials is necessary in order to protect the character and appearance of the area.

Conclusion

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

C Beeby

INSPECTOR

¹ APP/J1915/D/16/3142647



Appeal Decision

Site visit made on 10 March 2020

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2020

Appeal Ref: APP/J1915/D/20/3245711

15 Bentley Road, Hertford, Herts

- 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 Ralph Wrangles against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/2361/HH, dated 18 November 2019, was refused by notice dated 14 January 2020.
 - The development proposed is a two-storey front extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a two-storey front extension at 15 Bentley Road, Hertford, Herts, in accordance with the terms of the application, Ref 3/19/2361/HH dated 18 November 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, 62-19.1 and 62-19.2.
 - 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 effect of the appeal proposal on the character and appearance of the area.

Reasons

3. The appeal dwelling is a semi-detached property which is reasonably well set back from the residential street on which it lies. There is some variation in the building line on this side of Bentley Road as a result of the slight curve of the road at this point.
4. Some side or front extensions to properties in the area are evident. These include two-storey front extensions to some of the dwellings on the adjacent Calton Avenue, which is a street of a similar appearance. As a result of several such extensions, the area is partially characterised by examples of modest divergence from the relatively uniform appearance of dwellings as originally built. The use of matching materials and a scale which is subservient to the

existing dwelling ensure that such extensions are not unduly prominent within the street scene.

5. The scale of the two-storey built form of the appeal dwelling and its attached neighbour is substantial, so that the proposed extension would have a comparatively modest projection from the front of the dwelling. The extension would be relatively unobtrusive in views travelling west along the street as a result of its set back position and modest scale. It would generally be set against the building and its attached dwelling in views travelling east due to the variable building line of the row. The proposal would be constructed of materials to match those of the existing building, so that its appearance would be in keeping with the relatively uniform original materials of built form in the area.
6. The proposal would consequently form a further suitable example of a modest divergence from the original appearance of dwellings in the vicinity, and as such it would accord with the existing pattern of development. As a result of the above factors the proposal would avoid undue prominence within the street scene, and the pair of semi-detached dwellings would retain acceptable proportions.
7. Thus, the proposal would have an acceptable effect on the character and appearance of the area. The scheme consequently complies with Policies HOU11 and DES4 of the East Herts District Plan (2018), which require such proposals to be appropriate to the character, appearance and setting of the existing dwelling and the surrounding area and to reflect and promote local distinctiveness.

Other Matter

8. I note the concerns of an interested party regarding the potential effect of the scheme on a wall to the front of the building, however, these are not matters for this appeal, which I have determined on its planning merits.

Conditions

9. I have imposed a condition specifying the relevant drawings as this provides certainty.
10. A condition in respect of materials is necessary in order to protect the character and appearance of the area.

Conclusion

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

C Beeby

INSPECTOR

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PLANNING APPEALS LODGED FEBRUARY AND MARCH 2020
Head of Planning and Building Control

Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Procedure
3/19/1469/CLPO	Erection of an outbuilding, creation of a vehicular access, creation of a hardstanding and the installation of a gate.	Red CottageHowe GreenHertfordshireSG13 8LH	Refused Delegated	25/02/2020	Written Representation
3/19/1558/FUL	Erection of new dwelling.	Land Adj 99 Dimsdale CrescentBishops StortfordHertfordshireCM23 5LW	Refused Delegated	11/02/2020	Written Representation
3/19/1624/ADV	Erection of 1 internally illuminated fascia sign and 1 internally illuminated projecting sign.	7 Potter StreetBishops StortfordHertfordshireCM23 3UH	Refused Delegated	04/02/2020	Written Representation
3/19/1734/HH	Demolition of rear porch and construction of new two storey rear extension and first floor rear extension.	The OrchardsDuck LaneBeningtonStevenageHertfordshire SG2 7LJ	Refused Delegated	10/02/2020	Fast Track
3/19/1736/HH	Part single and part two storey rear extension and two storey side extension.	8 Cranbrook CloseWareHertfordshireSG12 0RQ	Refused Delegated	07/02/2020	Fast Track
3/19/1804/HH	First floor rear extension.	1 High RoadStaplefordHertfordHertfordshireS G14 3NW	Refused Delegated	19/02/2020	Fast Track
3/19/1843/FUL	Demolition of detached double garage. Construction of 1 dwelling in the curtilage of 17 Mangrove Drive.	Land Adjacent To 17 Mangrove RoadHertfordHertfordshireSG13 8AW	Refused Delegated	10/02/2020	Written Representation
3/19/1897/HH	Retention of works: Loft conversion comprising of rear dormer window and 3 rooflights.	56 Tamworth RoadHertfordHertfordshireSG13 7DN	Refused Delegated	21/02/2020	Fast Track
3/19/1957/FUL	Demolition of barns. Erection of 1, 3 bedroomed dwelling with associated parking and access	Eden HouseFanshaws LaneBrickendonHertfordshireSG13 8PG	Refused Delegated	11/02/2020	Written Representation
3/19/1967/FUL	Single storey side extension to create residents lounge, to include a glazed link with lead roof and fascia. Creation of terrace and new pathway with associated landscape.	Conewood Manor60-62 Dunmow RoadBishops StortfordHertfordshireCM23 5HL	Refused Delegated	12/03/2020	Written Representation
3/19/1968/LBC	Single storey side extension to create residents lounge, to include a glazed link with lead roof, fascia and internal alternations. Creation of terrace and new pathway with associated landscape.	Conewood Manor60-62 Dunmow RoadBishops StortfordHertfordshireCM23 5HL	Refused Delegated	12/03/2020	Written Representation
3/19/1980/HH	First floor side extension to include a roof dormer.	6 Trimms GreenSawbridgeworthHertfordshireCM2 1 0LX	Refused Delegated	02/03/2020	Fast Track
3/19/2103/HH	Two storey rear extension to include insertion of sun pipe to existing roof.	13 Warren TerraceBengeoHertfordHertfordshireS G14 3JE	Refused Delegated	11/03/2020	Fast Track
3/19/2136/HH	Creation of dropped kerb and hardstanding.	61 Cherry Tree GreenHertfordHertfordshireSG14 2HR	Refused Delegated	02/03/2020	Fast Track
3/19/2207/FUL	Retention of covered lean-to extension.	9 Gerard AvenueBishops StortfordHertfordshireCM23 4DU	Refused Delegated	11/03/2020	Written Representation
3/19/2241/FUL	Improvements to access by widening.	GrasslandsPye CornerGilstonHarlowHertfordshireCM2 0 2RB	Refused Delegated	26/02/2020	Written Representation
3/19/2352/FUL	Demolition of single storey rear extension and it's replacement with a two storey rear extension comprising office accommodation.	29B North StreetBishops StortfordHertfordshireCM23 2LD	Refused Delegated	11/03/2020	Written Representation
3/19/2361/HH	Two storey front extension.	15 Bentley RoadHertfordHertfordshireSG14 2EN	Refused Delegated	02/03/2020	Fast Track
3/19/2376/HH	Erection of front entrance door canopy roof.	17 Burnham Green RoadDatchworthKnebworthHertfordshire SG3 6SE	Refused Delegated	11/03/2020	Fast Track

Background Papers

None

Contact Officers

Sara Saunders, Head of Planning and Building Control - Ext 1656

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Public Inquiry and Hearing Dates
All Hertford Council Chamber unless specified

Application	Case Officer	Address	Proposal	Appeal Status	Procedure Type	Date
3/19/0049/CLXU	?	Home Farm Munden Road Dane End Ware SG12 0LL	To confirm the lawful use of buildings for employment purposes, comprised of: Building A2 for commercial storage (Use Class B8); Building A3 for furniture restoration (Use Class B1(c)); Building A4 for commercial storage (Use Class B8); Building B1 for auto repairs business (sui generis); Building B2 for commercial storage (Use Class B8); Building D for the use as music studio (Use Class B1); Building F for the storage of vehicles in connection with auto repairs (sui generis); Building G for commercial storage (Use Class B8); Building H for commercial storage (Use Class B8) and Building I for commercial storage (Use Class B8).	VALID	Hearing	TBA
3/19/0475/CLXU	Bruce O'Brien	Caretakers FlatS t Augustine Court Wharf Road Bishops Stortford CM23 3GE	Use of the caretaker's flat as a single dwelling.	VALID	Hearing	TBA
3/19/1148/FUL	Eilis Edmonds	The White Horse Inn High Road High Cross Ware SG11 1AA	Refurbishment and change of use of The White Horse public house (listed building), to create 3no. two bedroom dwellings, together with the construction of 4no. three bedroom dwellings with associated parking.	VALID	Hearing	TBA
3/19/1149/LBC	Eilis Edmonds	The White Horse Inn High Road High Cross Ware SG11 1AA	Refurbishment and change of use of The White Horse public house (listed building), to create 3no. two bedroom dwellings.	LODGED	Hearing	TBA
3/19/2099/FUL	Nick Reed	Land Adj To Long Leys Barn Fanshaws Lane Brickendon SG13 8PG	Site to contain one static caravan, with parking for two vehicles and associated infrastructure (retrospective).	VALID	Hearing	TBA

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DEVELOPMENT CONTROL

Major, Minor and Other Planning Applications

Cumulative Performance
(calculated from April 2019)

	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20
<i>Total Applications Received</i>	202											

<i>Percentage achieved against Local and National Targets</i>	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Targets for Local Performance (set by East Herts)	National Targets (set by Government)	
Major %	0%												Major %	60%	60%
Minor %	92%												Minor %	80%	65%
Other %	96%												Other %	90%	80%

Appeals	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20
Total number of appeal decisions (Monthly)	16											
Number Allowed against our refusal (Monthly)	4											

Total number of appeal decisions (Cumulative)	16											
Number Allowed against our refusal (Cumulative)	4											

AGENDA ITEM NO. 6D

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