



**MEETING** : DEVELOPMENT MANAGEMENT COMMITTEE  
**VENUE** : ONLINE MEETING - LIVESTREAMED  
**DATE** : WEDNESDAY 3 FEBRUARY 2021  
**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, R Fernando, J Kaye, I Kemp, T Page, C Redfern, P Ruffles and T Stowe (Vice-Chairman)

## **Substitutes**

Conservative Group:	Councillors S Bull, I Devonshire and S Newton
Liberal Democrat 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 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 - 2 December 2020 (Pages 7 - 18)

To confirm the Minutes of the meeting of the Committee held on Wednesday 2 December 2020.

### 5. Planning Applications and Unauthorised Development for Consideration by the Committee (Pages 19 - 22)

(A) 3/20/0897/FUL - Demolition of all buildings and erection of 49 dwellings comprising 17 apartments, 14 x 3 bedroom and 18 x 4 bedroom houses, construction of associated roadways, access, landscape and ancillary works at Hertford Mill Site, Tamworth Road, Hertford\_(Pages 23 - 88)

Recommended for Approval

- (B) 3/19/0033/NMA - Non-material amendment to 3/17/2588/OUT - Relocation of electricity substation from western elevation to northern elevation under Block A2 together with internal and external alterations to Blocks A1- A3 including internal re configuration of car park, introduction of cantilevered support to NE elevation and modification to roof form and building height at Bishops Stortford Goods Yard, Station Road, Bishops Stortford, Hertfordshire, CM23 3BL (Pages 89 - 104)

Recommended for Approval

6. Items for Reporting and Noting (Pages 105 - 236)

- (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 VIRTUALLY ON  
WEDNESDAY 2 DECEMBER 2020, AT 7.00  
PM

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PRESENT: Councillor B Deering (Chairman)  
Councillors D Andrews, T Beckett,  
R Buckmaster, B Crystall, I Devonshire,  
J Kaye, I Kemp, T Page, C Redfern, P Ruffles  
and T Stowe

ALSO PRESENT:

Councillor J Goodeve

OFFICERS IN ATTENDANCE:

Steven King	- Finance Management Trainee
Peter Mannings	- Democratic Services Officer
Sara Saunders	- Head of Planning and Building Control
Jill Shingler	- Principal Planning Officer
David Snell	- Service Manager (Development Management)
Victoria Wilders	- Legal Services Manager

274 APOLOGY

An apology for absence was submitted on behalf of Councillor R Fernando. It was noted that Councillor Devonshire was substituting for Councillor Fernando.

275 CHAIRMAN'S ANNOUNCEMENTS

The Chairman said that the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 came into force on Saturday 4 April 2020 to enable councils to hold remote committee meetings during the Covid-19 pandemic period. This was to ensure local authorities could conduct business during this current public health emergency. This meeting of the Development Management Committee was being held remotely under these regulations, via the Zoom application and was being recorded and live streamed on YouTube.

276 DECLARATIONS OF INTEREST

There were no declarations of interest.

277 MINUTES - 4 NOVEMBER 2020

Councillor Beckett proposed and Councillor Buckmaster seconded, a motion that the Minutes of the meeting held on 4 November 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 4 November 2020, be confirmed as a correct record and signed by the Chairman.

- 278     3/20/1814/FUL - DEMOLITION OF EXISTING EXTENSION TO LEISURE CENTRE AND CONSTRUCTION OF NEW 2 STOREY EXTENSION INCORPORATING EXERCISE STUDIOS, GYM, SOFT PLAY AREA AND CAFÉ WITH ASSOCIATED LANDSCAPING REARRANGEMENT OF CAR PARK AREA, CYCLE PARKING AND ANCILLARY EXTERNAL PLANT. PROVISION OF 120SQM TEMPORARY STUDIO AT HARTHAM LEISURE CENTRE, HARTHAM LANE, HERTFORD, SG14 1QR

The Head of Planning and Building Control recommended that in respect of application 3/20/1814/FUL, planning permission be granted subject to the conditions detailed in the report submitted. It was also recommended that delegated authority be granted to the Head of Planning and Building Control to finalise the detail of the conditions.

The Principal Planning Officer, on behalf of the Head of Planning and Building Control, referred to the late representations summary and said that there had been an error in the report and a further condition regarding the removal of a temporary studio building.

The Committee was reminded that the lead local flood authority had reiterated that they had no objection and had suggested an alternative wording to condition 16. The Principal Planning Officer requested that this alternative wording be included in the recommendation.

The Principal Planning Officer said that she had received formal comments from the conservation and urban design team and they had generally praised the quality of the design and had confirmed that they had no objections subject to conditions. She presented a selection of plans to the Committee, for the application site that was located on the edge of Hartham Common in between the River Beane and the River Lea.

Members were advised that the site was in a green finger of land that was in flood zone two and was also located within the Hertford Conservation Area. The site was close to the town centre and was well connected in terms of bus routes and there were also good pedestrian and cycle links.

The Principal Planning Officer said that the plan was to demolish the later extension to the building and to replace this with a two storey extension to provide a larger gym and studio space plus a café and a soft play area. Members were shown the elevation drawings and in particular the south west elevation for the shape of the proposed extension. The Principal Planning Officer drew attention to the existing corrugated green roof and highlighted a number of features of the proposed development including the curved aluminium roof.

The Principal Planning Officer said that the plans showed the landscape concept in terms of how the development would be accommodated into the common area of the park. She said that the plan detailed the trees that were to be removed and the

proposed living wall which served to soften and integrate the building into its setting. The living wall would serve to reduce solar gain and would assist with cooling requirements.

The Principal Planning Officer said that a new proposed footpath from the north south footpath through Hartham Common would lead to the café entrance at the rear and the proposed pergola between the trees would emphasise the entrance and provide a good linkage to the park.

The Principal Planning Officer covered a number of other key features of the design including timber effect cladding and a roof that sloped down to the south which would be ideal for photo voltaic cells. Members were reminded of the planning history and were advised that this was now a well-designed and sustainable building where any harm was outweighed by special circumstances.

Mr Lindus addressed the Committee in support of the application.

Councillor Beckett congratulated Officers and the design team on the improvements to the design and he believed that this would be a scheme to be proud of going forward. He said it was important that any extra plant noise was attenuated via the breeam strategy to avoid a dramatic effect on people using the park.

Councillor Redfern referred to condition 16 and asked for some clarity in terms of details of replacement trees. She said that this was a 100 percent

improvement on the previous design. Councillor Devonshire commented that he did not believe that 2 vehicle charging points was sufficient.

The Principal Planning Officer said that a condition requested by Environmental Health would ensure that there would be adequate noise attenuation. She said that there was unfortunately insufficient space within the site for planting significantly larger trees and she advised that the trees being lost were not of the highest quality.

The Principal Planning Officer said that as no additional parking spaces were proposed, it would be difficult to justify retrofitting for a significant number of charging points as an increase in parking provision was not part of this application.

Councillor Andrews stated that curves were good in nature and this application was now a much improved project and would help to diffuse the impact of this building. He said that cabling should be put in place so that infrastructure for car and bike charging could be facilitated in future.

Councillor Ruffles said that he was reassured by the concerns aired by the Members of the Committee at the previous meeting. He said that everything about the current application was an improvement on the previous scheme and was more in accordance with the modern age. He commented on the significant value the wider population placed on the openness of Hartham Common.

Councillor Kaye said the living wall was an excellent proposal and he liked the proposed timber finish. He agreed that rapid chargers or the cabling to facilitate this should be installed on this site.

Councillor Kemp said that he was very pleased with the new design which included curves and gentle slopes, which was much more in character with the existing building and the parkland setting. He said that he was also pleased to see the proposed solar panels and the air source heat pumps, as well as the living wall and the aim to reach breem excellence standards.

Councillor Kemp asked what measures were being considered to ensure the upkeep of the living wall. He also commented on whether there was a backup plan should the green wall need to be replaced in the future. He said he hoped that more electric vehicle charging points could be added as soon as possible.

The Principal Planning Officer said that a condition could be applied in order to secure wiring for future electric vehicle charging points. The Service Manager (Development Management) said that condition 11 regarding the car park management plan could be amended as part of the delegated authority being sought regarding the conditions.

The Principal Planning Officer said that there was a condition requiring that a landscape and environmental management plan be put in place regarding the upkeep of the living wall. She said it would be simple and inexpensive to replace this feature with cladding in future if circumstances

changed.

Councillor Page said that rapid charges were important due to people attending on a limited timed basis for exercise and he asked whether rapid charges could be conditioned. He said that he was pleased that the conservation and urban design advice had been acknowledged.

Councillor Crystall commented on the importance of electric vehicle charging in light of the impending ban on petrol and diesel vehicles. He said that the original plans had included a grass meadow in the car park and he wondered if this could be reinstated in the plans for this site. He said the trees to be planted were ornamental small growing species and these could not be compared to 25 metre high Willow and Hornbeam species.

Councillor Buckmaster expressed a minor concern regarding the gazebo area being adjacent to existing plant machinery. She asked whether this would be screened off by more than the existing metal fence.

The Principal Planning Officer said that the Conservation Officer was satisfied with the gabion features in terms of the design in a conservation area. She said that she did not believe that the Landscape Officer had understood that these features were to be seating with a timber finish and would be an important part of the overall sustainability of the design.

Members were advised that Officers could encourage the planting of more trees but could not require this to

happen as the meadow area was not part of this site. Councillor Page said that there would be a need for rapid charging in this location. The Service Manager (Development Management) said that most public use car charging facilities were now rapid chargers.

Councillor Andrews commented on the benefits of the proposed seating area for the local flora and fauna as part of the wider sustainability system. He said that motorway service station style chargers were not required due to the short journeys people would be making to visit Hartham.

Councillor Kemp said that it was really good to see the plan for this building and be able to believe that this was the best that could be achieved in the sense that it was a building that did not need to be screened.

Councillor Kaye said that 7 kw charges were fine for domestic use or at conference centres where a 7.5 hour charge was fine. He said that rapid charges would be more appropriate here and the wiring would need to be put in place to facilitate this. Councillor Deering commented on whether the site would be screened off in some way as it was open when viewed from Folly Island. He said that fencing would affect the openness of the area.

The Service Manager (Development Management) said that he had noted the comments of Members regarding electric vehicle charging points and Officers would take this matter forward for discussion with the applicant. The Principal Planning Officer commented on the proposed timber screening which was to be

erected around the sub-station and the air source heat pump. She said that there was no intention for the whole site to be screened from the front.

Councillor Andrews proposed, and Councillor Buckmaster seconded, a motion that application 3/20/1814/FUL be granted subject to the conditions detailed in the report, subject to the amended condition 16, and with authority being delegated to the Head of Planning and Building Control to finalise the details of the conditions.

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

**RESOLVED** –that (A) in respect of application 3/20/1814/FUL, planning permission be granted subject to the conditions detailed in the report now submitted, subject to the amended condition 16; and

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

## 279 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.

280     URGENT BUSINESS

There was no urgent business. The Chairman wished  
Members and Officers a very Happy Christmas and a  
prosperous New Year.

The meeting closed at 8.11 pm

Chairman .....
Date .....

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## East Herts Council Report

### Development Management Committee

**Date of Meeting:** 3 February 2021

**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

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### 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 electronically on zoom on the day of the meeting and Officers will be present to advise on plans if required. 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 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.

<b>Contact Member</b>	Councillor Jan Goodeve, Executive Member for Planning and Growth <a href="mailto:jan.goodeve@eastherts.gov.uk">jan.goodeve@eastherts.gov.uk</a>
<b>Contact Officer</b>	Sara Saunders, Head of Planning and Building Control, Tel: 01992 531656 <a href="mailto:sara.saunders@eastherts.gov.uk">sara.saunders@eastherts.gov.uk</a>
<b>Report Author</b>	Peter Mannings, Democratic Services Officer, Tel: 01279 502174 <a href="mailto:peter.mannings@eastherts.gov.uk">peter.mannings@eastherts.gov.uk</a>

## DEVELOPMENT MANAGEMENT COMMITTEE – 3 FEBRUARY 2021

<b>Application Number</b>	3/20/0897/FUL
<b>Proposal</b>	Demolition of all buildings and erection of 49 dwellings comprising 17 apartments, 14 x 3 bedroom and 18 x 4 bedroom houses, construction of associated roadways, access, landscape and ancillary works.
<b>Location</b>	Hertford Mill Site, Tamworth Road, Hertford Hertfordshire, SG13 7DL
<b>Parish</b>	Hertford Town Council
<b>Ward</b>	Hertford Kingsmead

<b>Date of Registration of Application</b>	11 May 2020
<b>Target Determination Date</b>	26 August 2020
<b>Reason for Committee Report</b>	Major Planning Application
<b>Case Officer</b>	Rachael Collard

### **RECOMMENDATION**

That planning permission be **GRANTED** subject to a Legal Agreement and to the conditions set out at the end of this report

That delegated Authority be granted to the Head of Planning and Building Control to finalise the detail of the Legal Agreement and conditions.

#### **1.0 Summary of Proposal and Main Issues**

1.1 The application is a full planning permission for the demolition of all existing buildings and the erection of 49 dwellings comprising of 17 apartments and 32 dwelling houses with associated roadways, access and landscape works.

1.2 The main issues for consideration are:

- Principle of Development;
  - Employment use

- Flood Risk Management
- Delivery of Housing
- Layout, Design and Appearance;
- Climate Change and Water Efficiency;
- Impact on Residential Amenity;
- Heritage Impact;
- Highway impact and parking provision;
- Land contamination and Noise;
- Infrastructure delivery and obligations.

## **2.0 Site Description**

- 2.1 The application site is located to the east of Hertford Town Centre and consists of a collection of employment buildings situated between Tamworth Road to the south and the railway line to the north. Meadow Close, a residential development is accessed from Tamworth Road and the site surrounds this area.
- 2.2 The site lies outside of the conservation area but is located within an area of archaeological significance and is located within Flood Zones 1, 2 and 3.
- 2.3 During the course of the application additional information was submitted, as a result a re-consultation on this information was undertaken.

## **3.0 Planning History**

3/19/0069/FUL	Demolition of existing buildings and erection of new buildings comprising 89 dwellings (11 houses and 78 flats), office space at ground floor level of Block H, creation of basement level car park and associated works.	Withdrawn
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## 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)

<b>Key Issue</b>	<b>District Plan</b>	<b>NPPF</b>
Principle of development	DPS1, DPS2, DPS3, HOU1,	
Employment Use	ED1	
Flood risk management	WAT1, WAT3	Section 14
Layout, Design and Appearance and Residential Amenity	DES3, DES4, Hertford Conservation Area Appraisal and Management Plan 2017	Section 12
Heritage	HA1, HA3	Section 16
Healthy and safe communities	DES5	Section 8
Climate Change and Mitigation	CC1, CC3, WAT4	Section 14
Highway impact and parking provision	TRA1, TRA2, TRA3	Section 9
Land Contamination and Noise	EQ1, EQ3	
Infrastructure delivery and planning obligations	DEL1, DEL2	Section 2 Section 4

It should be noted that Kingsmead Ward is a designated Neighbourhood Plan Area. However, no draft of the Neighbourhood Plan has been published.

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

## **5.0 Summary of Consultee Responses**

- 5.1 Consultees as set out below have provided feedback received in relation to the proposals as follows.
- 5.2 Cadent Gas – There is apparatus in the vicinity of the development.
- 5.3 HCC Minerals and Waste –Encourages the re-use of unavoidable waste where possible and the use of recycled materials. A SWMP should be submitted.
- 5.4 Thames Water– With regard to foul water sewerage network infrastructure capacity no objection is raised. With regards to surface water drainage, it is advised the developer follows the sequential approach to the disposal of surface water.
- 5.5 Crime Prevention Officer – Supports application.
- 5.6 EHDC Waste Services – Updated tracking plan addresses concerns
- 5.7 Environment Agency – No objections subject to conditions.
- 5.8 Network Rail – The developer must ensure that their proposal both during construction and after completion for works does not encroach onto Network Rail land, affect the safety, operation or integrity of the railway, undermine its support zone, damage infrastructure, over-sail or encroach.
- 5.9 Environmental Health – No objections subject to conditions.
- 5.10 EHDC Housing – The offer of one x 3 bed house for affordable rent plus a commuted sum of £142,860 (to be used for affordable housing anywhere in the District) is acceptable. It is our preference

that affordable housing is delivered on site so the 3 bed unit with the top-up commuted sum is the most appropriate option.

- 5.11 Hertford Civic Society – Objects to the application. The application makes no commitment to the inclusion of affordable housing. Parking should be provided for residents to the standard set out in the Council's policy. Need for outdoor space, concerns are raised in regards to Block E. Light intrusion, parking and highway safety, the entrance to the site should be further east, forming a cross-roads with Fairfax Road. No mention of NHS contributions.
- 5.12 Hertfordshire County Council Highways – No objections subject to conditions.
- 5.13 Hertfordshire County Council Historic Environment – Likely to have an impact on heritage assets of archaeological interest. No objection subject to condition.
- 5.14 Lead Local Flood Authority – No objections subject to conditions.
- 5.15 Victorian Society – Objects to the application and are of the view that the remaining 20th century buildings are of strong local interest, allowing the industrial past of the site to remain legible. As such, they should be considered as non-designated heritage assets which also make a positive contribution to the setting of the adjacent conservation area.
- 5.16 East and North Herts CCG – No objections subject to contributions.

(Note: EHDC, East Herts District Council; HCC, Hertfordshire County Council)

## 6.0 **Town Council Representations**

- 6.1 Hertford Town Council – Object to the application. They consider that the density was still too high and it was overdevelopment of the site and make the following points:

- Monolithic blocks - height and scale of apartment block is out of keeping;
- Unclear about provision for electric charging points - nose-to-tail parking arrangements;
- Inadequate parking on the site increasing pressure on Tamworth Road;
- No provision for sustainable energy;
- No provision of social housing for rent;
- Regret the loss of business use from the area of Hertford;
- Consider that semi-detached and shorter rows of terraces houses would be more in keeping;
- The old buildings should be incorporated into the scheme.

## **7.0 Summary of Other Representations**

- 7.1 The application has been advertised by neighbour consultation to local residents and businesses, by press and site notices.

102 representations have been received in objection to the application with the comments summarised as follows:

- Insufficient parking in an area where residents already struggle to park, residents parking is required.
- Narrow street with increased traffic causing unnecessary danger for residents.
- Concerns in relation to height of buildings which will dominate the area and be detrimental to the residents of Tamworth Road.
- Development will have a negative impact on the conservation area.
- Resultant buildings will result in overshadowing to existing buildings in particular The Springs development.
- Loss of historic buildings, Granary building and Chapel Mill and could be adapted to residential use.
- Loss of light to the gardens of The Springs.

- Overdevelopment of the site, too many residential units proposed. Covid-19 has made it clear home working is here to stay and people need homes with more rooms and space.
- Lack of space between the buildings making the plans for landscaping impossible to achieve;
- Tandem parking is unworkable and problematic in practice and will mean residents will park on Tamworth Road;
- No attention has been paid to the Victorian Society or the Twentieth Century Society comments about the significant historical and architectural interest;
- Funding should be sought to fund RPZ for Tamworth Road, Fairfax Road and surrounding roads;
- Garages should be prevented from being subsequently converted to living space;
- Concerned over route of construction traffic along Stanstead Road past Wheatcroft School. Traffic should be restricted to A roads;
- Photovoltaics and electric charging points should be seen;
- Shortage of public infrastructure – Shortage of primary school places on East side of Hertford, lack of GP practice in vicinity of site;
- Houses fronting Tamworth Road are not in keeping with Meadow Close, 101 Tamworth Road;
- Volume of properties related to occupancy is inappropriate;
- Designs of dwellings appear to be standard and picked from a book and do not enhance the surrounding area. Poor design and does not meet the NPPF for well designed places;
- Parking is a major concern, the industrial area provides overflow parking in an evening;
- Discrepancies with documents as whether the property frontages will be at street level to avoid adding height to buildings or be built 40cm above street level as a flood precaution;
- Highway safety issues, junction of Fairfax Road and Tamworth Road is a dangerous blind corner made more dangerous if cars can park;

- Access on Tamworth Road is limited and chaotic and the access from Fairfax Road is not suitable to accommodate the extra traffic;
- Less accommodation and more green space for a higher quality of living for residents;
- Loss of employment on the site;
- No protection during construction is mentioned for the sides of the site, what protection would there be for residents of The Springs and residents of No.27, 27a Tamworth Road and beyond;
- Don't need more flats in Hertford;
- Ware Road development demonstrates that there is insufficient on-site parking;
- Loss of Mill. There is no proof that a sympathetic conversion of the Mill is not possible;
- Tamworth Road is a designated cycle route, road is hazardous for cyclists who run the risk of being knocked over by opening car doors, pot holes, poor road surface and lack of a cycle lane on the road;
- Lack of outdoor amenity space for residents;
- Lack of commercial space allowed within the plans which is short sighted given the move towards more local office working post pandemic;
- Existing elevations give false impressions that the development is more in line with the local area than it is.
- The height of buildings is intrusive to Meadow Close dwellings and will bring people to live in what is already a very crowded area and busy road. Loss of privacy in the garden area due to being substantially overlooked. Any landscaping put in place will lead to loss of light;
- No two bedroom houses;
- Raise concerns about the suggestion of making Tamworth Road a no through road at International House, I hope a full consultation will be allowed and local residents are able to give their opinions;

- Natural airflow coming from the west could cause a problem to The Springs and surrounding areas with dust and the release of hazardous particles during demolition;
- Blocks A and E are significantly higher than the existing buildings will have a detrimental impact on neighbours;
- Flood risk, most of the site ground covered over, we can no longer consult the past twenty years as a bench mark for future forecasting;
- Concerned development could impact the possible flooding on neighbouring properties and could affect the water table and ground water flows in the area leading to flooding of houses;
- Proposals should include play space;
- Commuters leave cars all around the roads during the daytime;
- Development will create a prominent skyline feature from Ware Road;
- Developer has failed to engage in a meaningful way with the local community, if they were to carry out master planning and included us we would have positive and realistic suggestions;
- Kingsmead Neighbourhood Plan collated and analysed responses. Favour 3 bed homes, 2 bed bungalows and small developments of up to 10 units;
- KNP support for inclusion of bat or swift boxes in new builds, provision of small ponds, hedgehog highway along with an increase in green space. Tamworth Road has medium flood risk yet proposals offer little by way of attenuation or SUDS;
- Lack of affordable Homes;
- Reduction in house values;
- Noise pollution, increased pollution;
- Concerns over space for vehicles to move when taking into account the number of parked cars on site. There are inadequate parking spaces and inevitably residents and visitors will park on the road on site. Concern parking will be managed by management company result in another Liberty Rise development;
- The use of green roofs has not been considered;
- Development will affect wildlife;

- Use of gas boilers is against government policy.

## **8.0 Consideration of Relevant Issues**

### Principle of Development

- 8.1 Whether or not the proposals are considered to be acceptable in principle is, to a large degree, dependent on the whole range of key issues set out below. Insofar as the principle of the redevelopment of this site is concerned, the following discussion is most relevant.
- 8.2 The application site is located within the built up area of Hertford and therefore re-development of the site would be acceptable in principle in that context. However, the site is a non-designated employment area and the site lies within Flood Zone 1, 2 and 3. Consideration of these matters is set out below.

### Employment use

- 8.3 The application site is occupied by a collection of buildings that are in employment use these uses include B1(a), B1(c), B2 and B8 uses, although various buildings are vacant. The site is owned by Tappenden and Co Ltd who are the parent company of Mode lighting. Mode lighting operates from Tamworth Road, the High Street in Ware and its main factory located at Chelsing House on Mead Lane.
- 8.4 The planning statement explains that operating from two sites in close proximity but separated by the railway line is increasingly inefficient as manufactured parts are driven to the main factory for distribution. Furthermore the age and condition of the buildings are under used and not effective to repair. As such the company is seeking to consolidate its operations at Mead Lane, which is designated as an employment area, unlike the application site which is a non-designated employment area.



- 8.5 Members are advised that the applicant has planning permission to extend the existing building on Mead Lane (reference 3/18/1776/FUL) to accommodate and consolidate the business continuing to employ the existing staff.
- 8.6 Policy ED1 of the District Plan sets out that *'development which would cause the loss of an existing designated employment area, or a site/premises which is currently or last in employment use will only be permitted where criteria is met'*.
- 8.7 As part of the policy the applicant is required to fully explore the retention of the premises for use B1, B2 and B8. Consideration of improvements to the existing site/premises to make it more attractive. Evidence of a period of marketing should also be undertaken for a non-designated employment area. Part b sets out the retention of the B1, B2 and B8 use is unable to be facilitated by the partial conversion to a non-employment generating use and part c sets that the proposal does not prejudice the continued viability of existing employment areas and neighbouring uses.
- 8.8 The applicant has submitted a report on employment land and has looked into the potential of upgrading those buildings. However, it is concluded that a number of the buildings are beyond their design life and are not suitable for long term employment uses or conversion. Following a site visit some of the existing buildings are in a poor state of repair and whilst the site is currently in an employment use this is on a short terms basis as the business is run by the owners.
- 8.9 The submitted details state that the applicant has reviewed the potential to convert some of the employment space through the use of permitted development rights, which would be a fall-back position should consent not be granted.
- 8.10 The applicant has also marketed the site for a period of 6 months as an employment site, which is considered to be an appropriate length of time for a non-designated employment area. The

submitted marketing report has demonstrated that whilst there was interest, it was for the residential potential of the site and no interest was expressed in terms of retaining the site in an employment use.

- 8.11 Based on the information presented as part of the application it is considered that the application would be in compliance with policy ED1 of the District Plan.

#### Flood risk management

- 8.12 The site lies within Flood Zones 1, 2 and 3 as such it is acknowledged that the site is located in a medium and high flood risk area. The application is supported by a Flood Risk Assessment. The site which is partially located within Zone 3 of the Environment Agency's flood map the sequential test must be applied.
- 8.13 The aim of the sequential test is to steer development to areas with the lowest probability of flooding. The application is supported by a sequential test and has identified search area criteria, which include: previously developed land, sites within walking distance of train station/accessible by mix of transport modes, land suitable for flatted residential development, land capable of accommodating mixed use development for employment use and residential use, new build, delivering the most up to date energy efficiency measures as required by legislation, ability to meet EA requirements as demonstrated in the FRA and accompanying drainage strategy. As required the assessment provided is for the District as a whole and it is noted that the search areas are of the urban areas of Hertford, Bishop's Stortford, Buntingford, Sawbridgeworth and Ware.
- 8.14 The sequential test highlights sites that are of this size or similar in urban areas and have either had permission granted or have applications submitted and therefore are not available sites. In this instance the site is a brownfield site located within the settlement of Hertford which comprises of existing buildings and large areas

of hard surfacing and therefore is considered to pass the sequential test stage.

- 8.15 Once a proposal has passed the sequential test it also needs to pass the exception test. The application site is located on previously development land in an urban settlement surrounded by residential dwellings and is in a sustainable location and is accompanied by a Flood Risk Assessment and Drainage Strategy. The Lead Local Flood Authority and the Environment Agency have been consulted on the application and neither body raise objection on flood risk grounds. However, conditions are recommended should permission be granted.
- 8.16 The proposed development site can be adequately drained and can mitigate any potential existing surface water flood risk provided that it is carried out in accordance with the drainage strategy. In addition the Flood Risk Assessment demonstrates that the development will be safe without increasing flood risk elsewhere and where possible reduces the flood risk overall. It is therefore considered that it can be demonstrated that the development will be safe for its lifetime. However, a condition is recommended requiring details to demonstrate how the dwellings will be more resilient.

#### Delivery of Housing

- 8.17 The proposal will deliver 49 residential dwellings; the residential provision helps to meet the identified housing need within the district and attracts significant positive weight in the consideration of the application.
- 8.18 Policy HOU3 sets out the Council's Affordable Housing policy and seeks the provision of up to 40% of residential units as affordable. Where a lower provision is proposed a financial viability assessment is required to demonstrate and justify this position.

- 8.19 A viability report accompanies the application to justify the applicant's position in relation to affordable housing. Despite the information contained within the Design and Access Statement the initial viability appraisal set out that the developer was unable to offer any affordable housing and a monetary contribution of £550,000 towards infrastructure could be provided. The Council have engaged an independent viability consultant to scrutinise the submission and concluded that an offer of affordable housing could be provided although this would not be the full 40%. As a result further discussions with the applicant resulted in a further viability report being submitted. The Council's viability consultant concluded that financial contributions towards infrastructure could be provided and the development could provide either 3 x affordable rent dwellings or 5 x first homes.
- 8.20 Discussions with the Council's Housing Officer concluded that the preference would be for 3 x affordable rent dwellings, however as the 3 units would be within the flatted block, there were concerns that a registered provider would not take these units on because of repair and maintenance obligations. As it is considered better to deliver affordable units on a site than off site, it has been concluded that 1 x 3 bed house would be provided for affordable rent on the site and a top up commuted sum of £142,860 would be the most appropriate option, which could be used for affordable housing anywhere in the District. This would be secured through the Section 106 Agreement.
- 8.21 Whilst it is noted that the level of affordable housing would be considerably less than the 'up to 40%' set out in policy HOU3, the viability issues identified limit the amount of affordable housing that can be delivered as well as providing financial contributions. Therefore in this instance the proposed level of affordable housing is considered to be acceptable and no objections have been raised by the Council's Housing Officer.

### Layout, Design and Appearance

- 8.22 The National Planning Policy Framework (NPPF) sets out the view of the Government in respect of good design, indeed this is noted as forming a key aspect of sustainable development as it can contribute positively to making places better for people. In particular paragraph 124 of the NPPF sets out that, amongst other things, *“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”*.
- 8.23 Policies DES3, DES4 and DES5 seek design quality that respects the constraints of a site and integrates landscaping into the design. An assessment of the design and layout will be provided below.
- 8.24 The site consists of the provision of 49 units, comprising of 32 houses and 17 apartments. The site will be accessed from two accesses from Tamworth Road, with the access road running through the site leading to parking areas. New areas of soft landscaping would be provided within the garden areas in addition to planting within the public realm and the communal space to the rear of the flatted block.
- 8.25 Objections have been received stating that the proposed development represents over development of the site, the designs of the buildings are out of keeping with the surrounding area and the Conservation Area and are excessive in terms of their heights.
- 8.26 Block A is to the western side of the site and are three storey town houses with flat roofs mirroring the warehouse and commercial character on the site. The dwellings would have a range of fenestration detailing to the front and rear with internal garages seen at ground floor level with further living accommodation on the upper floors. It is noted that the proposed three storey townhouses are similar in terms of the span of the existing built form in this part of the site, however the proposed buildings would be higher than the existing commercial buildings and would be set

further away from the site boundary. Plots 1 and 6 have a single storey rear projection and concerns have been raised that this could be used as a balcony. Any proposals for balconies would require permission; however a condition would be imposed restricting the use of these areas as a balcony in order to prevent an unacceptable relationship with neighbouring dwellings.

- 8.27 Blocks B, C and D can be seen along the rear boundary of the site forming a terrace of 15 units. Block B would be three storey town houses. The design is considered to reflect the warehouse character of the existing Granary building, albeit the proposed dwellings would feature larger windows, louvre detailing can be seen to several of the properties to mitigate direct overlooking of neighbouring dwellings. The building of Block B would extend approximately 2.4m further to the west and would be approximately 0.7m higher than the existing granary building but would maintain the flat roof form. Rear facing balconies are also proposed. Adjoining is Block C which maintains the same overall height but would be recessed from the front elevation by approximately 4.8m, the third floor of the building would use a cladding material rather than brickwork, which helps to break up the elevation and links to the materials used in Block D. Block D would be similar in design to Block B with rear facing balconies, however a fourth floor is proposed to plots 16-20 which would be set back from the front elevation by approximately 3.7m. In addition roof terraces would be seen at the top floor, however in order to prevent direct overlooking a barrier would be constructed to prevent occupiers from standing at the edge of the building and therefore only oblique views towards properties would be possible. A condition would be imposed ensuring that this area is retained and is unable to be incorporated into the wider terrace. In addition a condition would be imposed requiring details of the balcony to be submitted.

- 8.28 Block E to the rear of the site would be three storeys and has an undulating roof form and could be described as following the character of the existing commercial units. The building at its highest point would be approximately 11.6m and it is acknowledged that the building is higher than the existing commercial buildings in this corner of the site. As such the roof form would be glimpsed from Tamworth Road. The elevations would feature brickwork and fenestration on all sides. No concerns are raised in relation to the appearance of Block E.
- 8.29 The dwellings fronting (F and G) Tamworth Road are modern but have traditional elements reflecting the locality and the traditional dwellings opposite. These dwelling would consist of accommodation over three floors, with third floor accommodation contained within the roof space and front facing conservation style roof lights. The semi-detached pair would feature a pitched roof two storey projection, whilst other properties within the terrace would have single storey bay windows. The detailing adds interest to the elevations and are considered to be acceptable. It is noted that the overall heights of the properties fronting Tamworth Road would be approximately 10m in height. Whilst it is noted that the dwellings would be higher than the adjacent properties, due to the roof form sloping away from the street, the overall height is not considered to be excessive.
- 8.30 Comments received from members of the public have highlighted that the buildings are required to have finished floor levels that are set no lower than 0.38m above ordanance datum, which is a requirement set out by the Environment Agency. The drawings show this and the overall heights of the buildings take this into account. Whilst the buildings may be higher than some of those immediately adjacent due to the separation distances being maintained and the overall design of the properties it is considered that this issue is has been addressed.

- 8.31 The Design and Access Statement sets out materials to be used and include, brick, metal and timber, which hint at the industrial past of the site but are to be used in a modern way. Combination brick works is proposed, corbelling and protruding piers, powder coated metal panels for privacy and add depth and contrast to elevations. Whilst precise materials have not been submitted it is considered that a condition requiring materials to be submitted would be necessary to ensure the quality of the development within the locality.
- 8.32 Overall it is considered that the proposed design, appearance and layout of the proposed development is acceptable in accordance with policy DES4 of the District Plan, it is noted that condition will be imposed removing permitted development rights for classes A, AA, B and E to ensure that any alterations would not cause impact on the amenities of neighbouring occupiers and to maintain the quality of the development.
- 8.33 The Hertfordshire Police Crime and Prevention Advisor has been consulted as part of the application, whilst a comment has been made regarding the height of any shrubbery around Block E, overall the Officer has no concerns and considers that the developer should be able to achieve accreditation to the Police preferred minimum security standards that is Secured by Design Silver level.
- 8.34 In accordance with policy HOU7 all new residential homes should meet Building Regulations Requirement M(4)2 category 2 – accessible and adaptable dwellings and a proportion of dwelling will be expected to meet Building regulations M(4)3 category 3 - Wheelchair User dwellings. Additional information was submitted during the course of the application and demonstrates that all units would be M(4)2 compliant and the majority of units would be M4(3) compliant with the exception of plots 39-49 which are only accessible via stepped access to the front door, however a level access can be obtained via the parking court to the rear of these



plots. Nevertheless it is considered that the proposals comply with policy HOU7.

### Landscaping and Natural Environment

- 8.35 At present the application site is covered by buildings and large areas of hardstanding with limited vegetation. As a result of the proposed development areas of soft and hard landscaping would be introduced. In accordance with policy DES3 development proposals must demonstrate how they will retain, protect and enhance existing landscape features which are of amenity and or biodiversity value.
- 8.36 The proposals include rear garden areas for each dwelling house and a communal area for the flatted block. It is noted that neighbour comments raise concerns over the size of the rear gardens and amenity space for flats and cite that the Covid-19 pandemic has elevated this concern. Whilst the concerns are noted, the Council has no guidance on garden sizes and therefore the individual gardens are considered to be acceptable. Similarly the communal garden area for the flatted block is also considered to provide suitable amenity for occupiers to enjoy and also provides relief within the site itself.
- 8.37 Additional areas of soft landscaping are shown adjacent to the flatted block the shared parking area, which provides relief and softens the public realm. The Council's Landscape Officer has raised no objection to the application however the comments provided relating to some aspects of the landscaping proposals should be noted, as alterations to plant types and species would be required in order to ensure that the soft landscaping has the best chance of establishing. It is also noted that due to the proximity of the site to the railway there are certain types of vegetation that would not be acceptable as it could affect the operations of the railway line. Therefore it is considered reasonable for a condition to be imposed requiring landscaping details to be provided; these

details should also include hard landscaping details to ensure the quality of the public realm is suitable.

- 8.38 Neighbour comments suggest that there is a lack of open space on the site and an area of play should be provided as there is limited greenery or children's play facilities in the vicinity of the site. Rowley's Road play area is located a short distance from the site and Hartham Common is also within walking distance and provides a range of children's play provision and open space. In terms of play provision on site, based on the number of dwellings proposed the Council's contribution calculator equates a demand of 284m<sup>2</sup> of equipped play space, this is under the Fields in Trust (FIT) guidance which states that an equipped area of play should be a minimum of 400m<sup>2</sup>. Therefore on this basis the size of development would not require an equipped area to be provided on site. However it is considered that the monetary contribution is put towards existing play space.
- 8.39 As there are areas of soft landscaping that would be located within the public realm it is necessary to understand how these areas will be managed and maintained once the development is occupied should permission be granted. As such it is considered necessary for an obligation to be included within a Section 106 for a maintenance and management strategy to be submitted to the Council to demonstrate how these areas will be maintained and managed in perpetuity.
- 8.40 In accordance with policies NE2 and NE3 of the District Plan, the proposal should achieve a net gain in biodiversity where feasible and proportionate to do so. A Preliminary Ecological Assessment (PEA) has been undertaken which concludes that the site offers little in habitat that is of value. The buildings were assessed for the likelihood of accommodating bats but none had the potential to accommodate any roosts. A biodiversity net gain statement has been provided stating that there would be a net gain for biodiversity. This is on the basis that the Ecological Appraisal recorded the site to be dominated by hardstanding and buildings

with limited areas of dense bramble scrub and small amounts of vegetation along the boundaries. The ecologist from Hertford Ecology agrees that the PEA remains valid given the lack of ecological interest on the site. It was concluded that the site is of negligible ecological value in terms of flora and fauna. A number of recommendations were made to incorporate native biodiversity within the proposals as ecological enhancements. These included a recommendation that planting plans include a wide variety of native plants. In addition the proposals would include the inclusion of a number of bird and bat boxes to provide new opportunities to local notable wildlife. It is considered reasonable to impose a condition requiring the bird and bat boxes to be provided.

#### Climate Change and Water Efficiency

- 8.41 It is expected that all new development demonstrates how the design, materials, construction and operation of the development will minimise overheating in the summer and reduce the need for heating in the winter, while integrating green infrastructure as well as demonstrating how carbon dioxide emissions will be minimised across the development.
- 8.42 Having regard to climate change adaptation and mitigation policies CC1 and CC2 and the building design requirements of Policy DES4, all developments should demonstrate how carbon dioxide emissions will be minimised and how the design, materials, construction and operation of development will minimise heating and cooling requirements. The application is supported by an Energy and Sustainability Strategy.
- 8.43 The statement submitted during the course of the application sets out that the buildings have been designed in line with the ethos of 'Be Lean, Be Clean, Be Green' Energy Hierarchy, with a focus on a fabric first strategy. This approach is one that is in line with the Council's policy approach and energy hierarchy. This means that the design achieves consistently high energy efficiency in order to achieve low CO2 emission rates.

- 8.44 As such the proposals will be of high performance building fabric, double glazing and energy efficient lighting, services and controls to reduce energy demand for space heating, cooling, ventilation and lighting. Passive design measures to reduce energy demand, high efficiency condensing combination boilers to provide heating and hot water in all unit types, natural supply and mechanical dMEV extract ventilation systems and photovoltaic panels to generate on-site electricity with individual houses in blocks A, B, C and D having a 3kW peak system (total 63kWp across the whole site). The precise siting of the solar panels are unclear, however a condition would ensure that their position would not have a harmful impact within the street scene or the setting of the conservation area. The details also states that the proposed energy strategy is considered to be consistent with the NPPF and policies CC1 and CC2 as it includes a 45% carbon reduction relative to the Building Regulations Part L 2013.
- 8.45 In terms of water efficiency, policy WAT4 requires residential developments to achieve a target consumption rate of 110 litres per person per day. The applicant has confirmed within the Energy and Sustainability Strategy that the development will include low water use fittings/appliances and internal potable water use will be limited to less than 105 litres per person a day. This would be in compliance with policy WAT4 and it is considered reasonable to impose a condition requiring the development to achieve at least the target consumption rate set out in policy.
- 8.46 It is considered that the information provided is sufficient to demonstrate that the proposals are in compliance with the climate change policies within the District Plan. This carries neutral weight in the consideration of the application.

#### Neighbour Impact

- 8.47 Policy DES4 requires a high standard of design, avoiding significant detrimental impact on the amenity of neighbouring occupiers,

ensuring their environments are not harmed by noise and disturbance, or by inadequate daylight, privacy and overlooking. Noise and light pollution is the subject of policies EQ2 and EQ3 respectively. Good relationships between new and existing development is one of the themes underlying the well-designed places guidance in the NPPF.

- 8.48 A number of objections have been received raising concerns that as a result of the amount and size of the dwellings the proposals would lead to loss of light to neighbouring properties and would result in loss of privacy for those existing residents.
- 8.49 Objections have been raised stating that the dwellings fronting Tamworth Road would allow for direct overlooking and loss of light to those dwellings located opposite. Whilst the proposed dwellings would be sited further forward than the existing commercial buildings and the dwellings would be higher than those buildings, the layout plan shows that 19m-20m would be maintained between the front elevations of the dwellings. Due to the separation distance maintained it is not considered that there would be loss of privacy or loss of light that would justify a refusal of the application.
- 8.50 Plot 39 would border No.12 Meadow Close, an obscure glazed first floor side facing window can be seen, a separation distance of approximately 1.8m would be maintained. Whilst some loss of light to this side facing window of No.12 would result, it is unlikely to serve a principle living space and therefore it is not considered to warrant a refusal of the application. Furthermore due to the siting of the proposed dwelling it is not considered that there would be loss of light to the rear facing windows of the neighbouring dwelling to justify a reason for refusal. Views across the rear garden would be possible from the upper floor windows; however this is not unusual within a built up residential area. In relation to plot 49, this would border a single storey uninhabited structure which provides access into a rear parking area and parking spaces

can be seen immediately in front, therefore no concerns are raised in this regard.

- 8.51 Strong concerns from residents have been raised regarding the apartment block (Block E) in the northern corner of the site. Whilst this building would be three storeys in scale and would feature an undulating roof form, the building is set approximately 14m at its closest point to the eastern boundary, beyond that is a shared parking court serving the apartments within The Springs, providing further separation between the proposed apartments and the existing apartments, a total separation distance of approximately 28m would be maintained. It is also noted that three terraced dwellings can be seen within The Springs, a car port would be located on the boundary, however due to the height limited to 4m shown on the plans this is considered to be acceptable. Whilst views of the rear gardens of these dwellings would be possible it is not considered to result loss of privacy that would be unacceptable. As a result the proposed development is not considered to result in loss of light to those residents and would not result in direct overlooking into these properties.
- 8.52 In respect of the dwellings to the rear of the site backing onto the railway line (plots 7 – 21 also known as Blocks B, C and D), the nearest residential properties are those located within Meadow Close (in particular the end of terrace No.7). It is noted that the front elevations of the terraced row of plots 7-15 would be sited approximately 7.2m (at its closest point) from the boundary with Meadow Close. It is also acknowledged that the expanse of built form would be larger than the existing Granary building, with the proposed Block approximately 0.7m higher than the Granary Building and the built form extending approximately 2.4m further to the west.
- 8.53 Plots 9-15 would overlook the front garden area of No.7 and other front gardens within this terraced row, the communal parking court and garages for those dwellings. A distance of approximately 32m would be retained from the front elevations of the proposed

dwelling and the rear elevations of those properties within Meadow Close fronting Tamworth Road with the existing garages providing some screening. Therefore in this instance whilst views of the rear gardens would be possible, the distance achieved would not result in a detrimental impact to those occupiers to justify a reason for refusal. Furthermore views over gardens are not unusual in a built up residential area.

- 8.54 In relation to No.7 Meadow Close it is acknowledged that there would be some overlooking from the upper floor windows of the proposal. However louvre detailing to the front elevations of some of the plots which cover a proportion of the larger windows and helps mitigate direct overlooking of the rear garden of the dwellings. As such the proposals are not considered to result in a detrimental impact to justify a refusal.
- 8.55 The dwellings along the western boundary of the site (Plots 1-6 also known as Block A) are located adjacent to International House (No.29 Tamworth Road, a residential conversion), No's 27 and 27a Tamworth Road and No's 4-7 Meadow Close.
- 8.56 In respect of No.27 Tamworth Road, plot 1 would be the closest dwelling, due to the single storey projection the plans show that plot 1 would have a rear garden depth of approximately 8m whilst the middle plots (2-5) would have increased garden depths of approximately 9.7m. Immediately to the rear of the western boundary with the site lies an Environment Agency asset and the access for No.27a Tamworth Road which lies to the rear of those properties fronting Tamworth Road itself. A distance of approximately 13.7m would lie between the proposed dwellings and the side boundary of No.27. The proposed dwellings would be three storeys in scale and windows would be seen within this rear elevation. Due to suitable boundary treatments at ground level the concern is in relation to the upper floor windows. Whilst it is acknowledged that some overlooking from these windows would result, it is not considered to be detrimental to neighbour amenity to justify a refusal.

- 8.57 In respect of No.27a this is a bungalow and is not visible from Tamworth Road. The bungalow is orientated towards the application site and is a 'U shape'. A garage is located close to the boundary with the application site and an area of hardstanding for parking. Fenestration can be seen to the front elevation of the property and a patio area was also observed. The proposed development will change the outlook for this property and it is acknowledged that the built form would be higher than the existing situation, however it is also noted that the proposed dwellings would be sited further from the boundary unlike the existing buildings which are located on the boundary. Some loss of privacy would result to the frontage of this property; however the occupiers of the dwelling have access to a large rear garden that would not be overlooked by the proposed development.
- 8.58 Plots 1-3 would be the closest properties to No's 4-7 Meadow Close. It is noted that a distance of 11.6m would be maintained from the front elevation of these dwellings to the boundary, whilst a distance of approximately 20m would be seen to the rear elevation of these dwellings. The floor plans show that the two smaller windows serve bathrooms and therefore would be obscure glazed due to the nature of the rooms they serve. However it is noted that large windows would be seen. It is considered reasonable to impose a condition requiring plots 1-3 to have the same louvre detailing as seen on plot 7 to mitigate direct overlooking towards this dwellings.
- 8.59 In relation to International House, no rear facing windows were observed and therefore no objections are raised in this regard.
- 8.60 Overall whilst it is acknowledged that there would be some loss of privacy to neighbouring properties and some loss of light, it is not considered to be to a degree that would warrant the refusal of the application and the evolution of the design has enabled issues to be dealt with.



## Heritage and Archaeology

- 8.61 As stated elsewhere within this report there are a collection of buildings on the site. The most notable is the early C20th light red Fletton brick, four storey Granary Building to the rear of the site which formed part of the former Chadwell Biscuit Works.
- 8.62 A number of comments from members of the public have been received, objecting to the demolition of the early 20<sup>th</sup> Century buildings which includes the Granary Building and Chapel Mill. It is also noted that the Victorian Society have submitted comments recommending refusal of the application, citing that the historic early 20<sup>th</sup> century buildings should be retained and the site should be included within the conservation area. The commentary also considers the factory; workshop and warehouse important to the setting of the conservation area and considers that the scale of the buildings proposed would result in overshadowing of those dwellings located opposite.
- 8.63 The Council adopted the Hertford Conservation Area Appraisal and Management Plan in 2017, which is a material consideration in the determination of planning applications and was subject to a public consultation. This appraisal seeks to *'identify the special character of the Conservation Area, identifies elements that should be retained or enhanced, identifies detracting elements, reviews existing boundaries and puts forward practical enhancement proposals.'* The document considers Tamworth Road and it is noted that an amendment to the conservation area boundary was recommended to include Nos. 6-102 Tamworth Road. However the application site and other dwellings located on the northern side of Tamworth Road remain excluded from the Conservation Area.
- 8.64 The Council's Conservation and Urban Design Officer has provided comments and acknowledges that the former Chadwell Biscuit Works whilst not within the conservation area is of some local interest. The Council had suggested the retention and conversion of the building in a way that retains its industrial character,

however following a site visit; it was noted that the buildings had been heavily altered in a way that has diluted their heritage interest and character and are not suitable for a straight forward conversion, due to the small windows and low ceilings. Due to the limited interest of these buildings the Conservation Officer has no objections to the demolition of the buildings on the site.

8.65 The County Council's Historic Advisor has also provided comments in relation to the application, as in accordance with policy HA3, where a site has the potential to include heritage assets with archaeological interest, an appropriate desk based assessment is required to be submitted as part of an application. The site is not located within an area of archaeological significance; however the application site is just outside the Area of Archaeological Significance no.62.

8.66 The Historic advisor notes that the site is outside the known extent of the medieval town and historic mapping show no structures on the site until the 3<sup>rd</sup> edition Ordnance Survey Map (1923). Therefore the archaeological potential of the site is considered to be relatively low. However it is advised that should the Council's Conservation Officer not consider that the Granary Building and any other early structures necessitate conservation, a comprehensive programme of historic building recording should be undertaken prior to any development taking place. It is considered reasonable and necessary for a condition to be imposed requiring the archaeological building recording of all structures of heritage value.

8.67 Whilst the buildings remain on site at present, the developer could submit a Prior Approval application to demolish the buildings, which the Council would be unable to resist.

#### Highway Impacts and parking

8.68 Policy TRA1 relates to sustainable transport measures and sets out that development proposals should primarily be located in places

which enable sustainable journeys to be made, ensuring that a range of sustainable options are available and ensure that site layouts prioritise the provision of modes of transport other than the car. Policies TRA2 and TRA3 require proposals to ensure safe and suitable access and suitable parking provision. The NPPF (2019) places emphasis on the importance of sustainable travel, as seen within paragraphs 108 and 110. Hertfordshire County Council's Local Transport Plan 4 (2018) also places a much greater emphasis on the importance of sustainability/accessibility.

- 8.69 The highway authority has been consulted on the application, it should be noted that the Highway Authority amended their response during the course of the application.
- 8.70 The existing vehicular access on the western side of the site is to be retained whilst a new formal access is proposed to the eastern side of the site, the highway authority has no concerns with the access strategy detailed within the Transport Statement accompanying the application and as such the development should be in accordance with the approved site layout which includes a 2m footway on the development frontage. In order for these works to be implemented appropriately the developer will need to enter into a Section 278 agreement to facilitate the proposed access and other changes that will affect the public highway.
- 8.71 Concerns have been raised by members of the public regarding the development and an increase in traffic and vehicle movements within the vicinity. A TRICS analysis has been carried out and stated that there are currently 227 vehicular trips and 34 OGVs trips for the existing uses on site. The anticipated vehicular trips as a result of the development would reduce to 191 vehicular trips and 2 OGVs. The highway authority has reviewed the TRICS analysis and does not disagree with the trip generation and therefore do not consider that the development would have a material impact on the wider highway network.

8.72 The Highway Authority considers the site to be within walking distance of Hertford Town centre and public transport, which includes Hertford East railway station and bus station. However the footway network to access these key facilities is substandard in places. It is recommended that improvements are made at junction points under the Section 278 by condition to provide tactile paving and pedestrian dropped kerbs which will mitigate the immediate impacts of the proposed development and promote active travel, therefore a condition has been recommended to include for those off site highway works. It is also noted that a Travel Plan Statement is essential and therefore a planning condition requiring such is recommended and is considered reasonable.

8.73 Those off-site works to improve active travel in the vicinity will be secured via condition and Section 278 agreement, those planning contributions to be secured under the first strand (Section 278 agreement) are as follows:

- Junction at Tamworth Road/Meadow Close.
- Junction at Tamworth Road/Raynham Street (across Raynham Street on its northern side).
- Junction at Talbot Street/Raynham Street (onto Talbot Street in north-south direction).
- Junction at Talbot Street/Currie Street (across Currie Street on its northern side) and junction at Talbot Street/Railway Place (across Railway Place on its northern side).
- Junction at The Springs/Tamworth Road.

8.74 The second strand would be a financial contribution secured via the Section 106 agreement, in accordance with the HCC Planning Obligations Toolkit, the cumulative impact of a large number of smaller developments can often be more significant than the impact of a small number of large developments. As such for smaller developments contributions are sought on a unit rate basis.

- 8.75 In this instance and based on the size of the dwellings, £54,875 would be sought. However once the SPONS indexation has been taken into account between 2006 and 2020 this results in a figure of £78,729). As the proposal would undertake off site highway works which would equate to approximately £30,000 (pedestrian dropped kerbs and tactile paving works) as these works outlined above have wider public benefits this figure can be deducted from the total Section 106 headline figure and therefore a total of **£48,729** would be sought.
- 8.76 The Highway Authority has identified a scheme to improve access around Hertford East railway station which includes improvements around the Mill Road/Railway Street junction.
- Improve cycle parking provision at key locations in the centre of Hertford to promote cycling uptake. Key locations include Hertford East Railway Station, the town centre.
  - Improve walking and cycling connectivity to Hertford East railway station through walking and cycling provision on Railway Street, for example junction entry treatments including raised tables for pedestrians crossing the road, potentially reduced speed limits if in accordance with the Speed Management Strategy and wayfinding.
- 8.77 The Highway authority does not object to the swept path analysis for the refuse collection lorry and confirm that the proposed access and internal roads are satisfactory to accommodate emergency vehicles such as a Fire Engine. It is also noted that should planning permission be received a building regulations application would be required and further comments would be made by the fire safety advisor.

#### Parking Provision

- 8.78 With regards to parking provision on the site, 102 parking spaces are proposed. A total of 17 unallocated visitor spaces are proposed including 8 disabled spaces with the remaining 85 spaces allocated

for residents, including 13 disabled spaces. The Council's updated parking standards set out the amount of car parking that should be provided on site:

1 bed - 1.5 spaces = 7.5

2 bed – 2 spaces = 24

3 bed – 2.5 spaces = 35

4 bed – 3 spaces = 54

- 8.79 In accordance with the updated parking standards 121 (rounded up) parking spaces would be required. It should be noted that the site is located within zone 4 and therefore up to a 25% reduction in maximum parking levels can be applied.
- 8.80 The designs of the dwelling houses incorporate garages at ground floor level, with each dwelling having two parking spaces in a tandem formation. In order for garages to be counted as parking spaces as per the Council's parking standard guidance (Appendix C), they should achieve internal dimensions of 5.6m x 2.6m or 3.2m x 5m. The internal dimensions of the garages proposed within Block A are 3m x 6.1m with a further space in front of the garage, whilst the garages provided within Blocks B and D are 3m x 10.6m (allowing for 2 vehicle's to be parked in a tandem formation) and are therefore in excess of these dimensions and can be counted as parking spaces. Residents have raised concerns over the tandem parking arrangement, stating that future residents would not use them and as a consequence additional cars would be parked on Tamworth Road and surrounding roads, which already experience high amounts of on street parking. Whilst it was noted that many of the dwellings nearby do not have any off street parking and therefore park on street, there is no policy requirement that states that tandem parking would be unacceptable. Furthermore the new occupiers would be aware of the parking arrangement from the outset. The garage also allows for storage and shows an area for bins to be stored.

- 8.81 In relation to Block C which consists of 1 unit, this property has two spaces in its frontage, whilst flatted block E has a shared parking court containing 18 parking spaces
- 8.82 Blocks F and G consist of those properties that front Tamworth Road, each of these properties would have access to 2 parking spaces to the rear of the gardens within car ports, these spaces would be 2.4m x 4.8m and therefore accord with the parking standards document (Annex C).
- 8.83 Concerns have been raised by members of the public regarding traffic implications and the lack of parking on site which could impact on street parking on Tamworth Road and the surrounding roads. Each property would have 2 parking spaces allocated, a further 17 unallocated (visitor spaces) are located around the site. Whilst the larger homes would not achieve the parking standards, which requires 3 spaces (applying to 18 dwellings) due to the zonal approach set out in the parking standards it is not considered that the proposed development would warrant a refusal on lack of parking. In terms of existing on street parking, this would still be possible and whilst residents have stated that the industrial area provides overflow parking in an evening, this is not land that can be relied upon for parking in perpetuity as it is private land.
- 8.84 No concerns have been raised by the Highway Authority in respect of the impact the development may have on the wider road network. It would be reasonable and necessary to restrict the use of the garages for the parking of vehicles and therefore a condition would be imposed to this effect.
- 8.85 It should be noted that the applicant has confirmed that each dwelling house will be provided with an Electric Vehicle Charging point (EVCP) and would be located in the garage or car port space allocated for each dwelling. A shared EV charging point would be provided for the apartment block. This is considered to be a positive benefit to the scheme and would be in accordance with policy DES4. A condition is recommended to ensure that details are

submitted to and approved by the Local Authority and to ensure that they are installed on site.

- 8.86 In accordance with the Council's parking standards 1 long term space should be provided per unit, if no garage or shed is provided. The drawings show two cycle spaces in front of the dwelling houses (Block A and C), however each of those dwelling would have access to a garage and as set out above due to the size of those garages it allows for storage which could be used by cycles. Blocks F and G would have access to the rear gardens and therefore suitable storage of cycles would be possible. In respect of the flatted block an internal cycle store can be seen at ground floor level, providing a suitable level of cycle storage and would be directly accessible from outside.

#### Land Contamination and Noise

- 8.87 In accordance with policy EQ2, development should be designed and operated in a way that minimises the direct and cumulative impact of noise on the surrounding environment. A noise assessment has been submitted and the survey work carried out indicates that noise from the railway line on the northern boundary results in noise exposure. The Council's Environmental Health Officer has reviewed the noise assessment and notes that noise mitigation measures (acoustic glazing, air bricks and ventilators) were found to be required to some of the proposed dwellings. It is also noted that a 2m high close boarded fence is proposed to the northern boundary with the railway. However further information is required in relation to vibration from trains on the railway line. As such whilst no objections are raised by the Environmental Health Officer this is subject to a condition being imposed requiring a further scheme to be submitted in relation to road traffic noise, railway noise and vibration which should follow the recommendations identified in the submitted noise assessment. In this instance it is noted that existing dwellings can be found adjacent to the railway line and as Hertford East is the final station on this line, trains are generally moving at lower speeds. This



condition is considered to be necessary to ensure that the level of amenity for residents is acceptable.

- 8.88 In accordance with policy EQ1, the Council encourages the remediation of contaminated land to ensure that land is brought back into use. As the site has been used for industrial uses over the years there is the potential for the site to be contaminated. A Contaminated land risk assessment has been submitted. As the proposed use would result in sensitive end users, there is the potential risk to human health from hydrocarbons, solvents, metals, asbestos to the ground water. Whilst the Council's Environmental Health Officer does not raise an objection to the proposals a condition is considered to be necessary to ensure remediation of the land is undertaken with the necessary mitigation measures implemented.
- 8.89 Other conditions have been suggested which include details of external lighting, construction management details and hours of construction, all of which are considered to be reasonable and would be imposed on any grant of permission.

## **9.0 Infrastructure Delivery and Planning Obligations**

- 9.1 This section of the report will consider the planning obligations heads of terms for the Section 106 Agreement and other planning gain from the development. Policies DEL1 and DEL2 of the East Herts District Plan are relevant and require developers to demonstrate adequate infrastructure capacity can be provided both on and off site to enable the delivery of sustainable development.
- 9.2 The NPPF sets out that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all of the following tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended):

- Necessary to make the development acceptable in planning terms
  - Directly related to the development, and
  - Fairly and reasonably related in scale and kind to the development
- 9.3 With regard to development viability, developers will normally be expected to pay all of the planning obligations identified as being required and meeting these three tests, and to deliver a policy compliant proportion of affordable housing, in this case 40%.
- 9.4 The NPPG advises that: “in making decisions, the local planning authority will need to understand the impact of planning obligations on the proposal. Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations. This is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability”
- 9.5 Hertfordshire County Council has requested the following financial contributions towards Nursery Education, Primary Education, Secondary Education, Childcare Service, Library Service, Youth Service and Sustainable Transport.
- Highway - £48,729 (inclusive of indexation SPONS from July 2006)
- 9.6 In addition a Section 278 agreement with the County will secure the highway improvement works set out in the highway section of this report.
- Nursery Education - £15,657 (index linked to PUBSEC 175)  
Towards expansion of Right Track Day Nursery

- Primary Education - £113,192 (index linked to PUBSEC175)  
Towards new 2fe expansion at existing Simon Balle School
- Secondary Education £349,850 (1Q2020, BCIS All in TPI)  
indexation will be applied from this date.  
Towards the new secondary school within WARE2  
development
- Childcare Service - £6,288 (index linked to PUBSEC175)  
Towards expansion of Right Track Day Nursery
- Library Service - £8,975 (index linked to PUBSEC175)  
Towards the reconfiguration of the Children's area at Hertford  
Library
- Youth Service - £2,328 (index linked to PUBSEC 175)  
Towards new Young People's Centre in Hertford

9.7 Comments from the East and North Hertfordshire CCG have been received. They request contributions towards General Medical Services (GP provision), Mental Health, Community Healthcare and acute, these are as follows:

- GMS (GP Services) - £34,682.36
- Mental Health costs - £9,886.00
- Community Healthcare costs - £8,919.00
- Acute costs - £108,509.00

9.8 The commentary also discusses the potential to focus GMS monies on general practice infrastructure within Hertford and ideally within the development but if this cannot be achieved then an off-site contribution should be secured. In this instance, neither the CCG nor the developer has discussed the potential of an on-site NHS facility and furthermore the development sought does not include a D1 use which a medical facility would fall within. As such in this instance the GMS contribution is considered to be

reasonable and meets the CIL tests and therefore it is considered that an off-site contribution would be preferable and could be secured via a Section 106.

9.9 In terms of the other sums that have been sought insufficient information has been provided and therefore they fail to comply with the CIL tests and therefore are not being sought at this stage.

9.10 In accordance with the Open Space, Sport and Recreation SPD and the Planning Obligations SPD, in respect of this application and in recommending financial planning obligations subject to the identification of projects and compliance with the CIL Regulations, these amounts are as follows:

- Children's Play and provision for young people - £129,595
- Parks and Gardens and Amenity Green Space - £48,303
- Natural and Semi Natural Green Space - £20,335
- Allotments - £5,324 plus £3,342 (maintenance)
- Sports Halls - £20,398
- Swimming pool space - £20,860
- Fitness Gyms - £9,065
- Studio Space - £3,745
- Bowls - £4,583
- Village and Community Centres - £24,691
- Playing Pitches - £15,631

(All to be index linked)

- Recycling - £3,884 (fixed amount)

9.11 As set out elsewhere in this report due to viability the following is sought in terms of affordable housing:

- 1 x 3 bed unit (affordable rent) and commuted sum of £142,860 (to be used across District)

## **10.0 Other Matters**

- 10.1 Other matters that have been raised in neighbour objections will be discussed below.
- 10.2 Comments have been raised suggesting that Tamworth Road should be a no through road as it is a 'rat run' and should be terminated at International House to only allow pedestrians and cyclists through. The Council raised this with the Highway Authority and have stated that a no through road would have a knock on effect to the adjacent road network and therefore would not be supported. Further comments have been raised regarding implementing a CPZ around Tamworth Road, whilst this is something that the parking team can explore, this operates outside of the planning system and requires formal consultation with residents, therefore there is no certainty that such a scheme would be implemented in the future.
- 10.3 Concerns have also been raised regarding the effect of the development on house prices, however this is not a material consideration that can be taken into account.
- 10.4 It is noted that residents do not consider the development complies with the masterplanning policy DES1 and that there has been a lack of discussion with the residents and residents associations. Housing numbers proposed have reduced significantly from the original proposal. The application is not a strategic site and is not considered to represent significant development and therefore policy DES1 would not apply. Notwithstanding this a public consultation has been undertaken as part of the application and the application has been discussed at a steering group with Councillors and other key stakeholders.

## **11.0 Planning Balance and Conclusion**

- 11.1 The proposal will deliver 49 dwellings and is brownfield land within an existing urban area, the site is considered to be a sustainable

location for residential development. The absence of a policy compliant affordable housing would normally weigh against the proposals, however 1 unit would be provided as a result of the viability assessment. Officers are satisfied that the amount of affordable housing provision is suitable and therefore the provision of 49 units carried positive weight.

- 11.2 The Highway Authority considers the proposed access and highway arrangements to be satisfactory. The highway impact of the development is considered to be neutral. It is acknowledged that the car parking provision falls slightly below the adopted updated standard and this carries negative weight however the development has access to public transport and services and the negative weight is therefore limited.
- 11.3 It has been demonstrated that the development can be adequately drained and can mitigate any potential existing surface water flood risk provided that it is carried out in accordance with the drainage strategy. In addition the Flood Risk Assessment demonstrates that the development will be safe without increasing flood risk elsewhere and where possible reduces the flood risk overall. Subject to conditions the flood risk impact of the development is regarded as neutral.
- 11.4 Accordingly, on the balance of considerations the proposal is considered to be acceptable.

### **RECOMMENDATION**

That planning permission be **GRANTED** subject to a legal agreement and the draft conditions set out below at the end of this report.

That delegated authority be granted to the Head of Planning and Building Control to finalise the detail of the Legal Agreement, the contributions to be contained therein and conditions.

## **Draft Legal Agreement**

Financial contributions set out below have been calculated based on the number and mix of dwellings proposed. The figures quoted here are based on costs calculated at specific points in time and need to be index linked to differing indexes at the time that the agreement is signed.

- Highway - £48,729 (inclusive of indexation SPONS from July 2006)
- Nursery Education - £15,657 (index linked to PUBSEC 175)
- Primary Education - £113,192 (index linked to PUBSEC175)
- Secondary Education £349,850 (1Q2020, BCIS All in TPI) indexation will be applied from this date.
- Childcare Service - £6,288 (index linked to PUBSEC175)
- Library Service - £8,975 (index linked to PUBSEC175)
- Youth Service - £2,328 (index linked to PUBSEC 175)
- GMS (GP Services) - £34,682.36
- Children's Play and provision for young people - £129,595
- Parks and Gardens and Amenity Green Space - £48,303
- Natural and Semi Natural Green Space - £20,335
- Allotments - £5,324 plus £3,342 (maintenance)
- Sports Halls - £20,398
- Swimming pool space - £20,860
- Fitness Gyms - £9,065

- Studio Space - £3,745
- Bowls - £4,583
- Village and Community Centres - £24,691
- Playing Pitches - £15,631

(All to be index linked)

- Recycling - £3,884 (fixed amount)
- 1 x 3 bed unit (affordable rent) and commuted sum of £142,860 (to be used anywhere in the District)
- Maintenance and Management details of the communal areas of the development.

### **Schedule of Conditions**

1. Three year time limit (LT12)
2. Approved Plans (2E10)
3. Notwithstanding the approved plans, prior to any building works being commenced samples of the external materials of construction for the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented in accordance with the approved materials.

Reason: In the interests of the appearance of the development, and in accordance with policy DES4 of the East Herts District Plan 2018.



4. Prior to above ground works of the development hereby approved, details of landscaping shall be submitted to and approved in writing by the Local Planning Authority and shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.

Reason: To ensure the provision of amenity afforded by appropriate landscape design in accordance with Policies DES3 and DES4 of the East Herts District Plan 2018.

5. All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with policies DES3 and DES4 of the East Herts District Plan 2018.

6. An integrated bat and bird box plan shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. The plan shall include the make, model and location of integrated bat and bird boxes (habitat or similar). The boxes must be fully installed prior to occupation and retained as such thereafter.

Reason: In accordance with policies NE2 and NE3 of the East Herts District Plan 2018.

7. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, or any amending Order, the enlargement, improvement or other alteration of any dwellinghouse, additional storeys, and alterations to the roof as described in Schedule 2, Part 1, Classes A, AA, B and E of the Order shall not be undertaken without the prior written permission of the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with Policy DES4 of the East Herts District Plan 2018.

8. Each dwelling within the development hereby approved shall be provided with high speed broadband infrastructure in accordance with the submitted details and timetable such that it is available for use on first occupation of the property to which it relates.

Reason: In order to ensure the provision of appropriate infrastructure to support the future sustainability of the development in accordance with policy DES4 of the East Herts District Plan 2018.

9. Prior to above ground works and notwithstanding the approved plans, amended plans shall be submitted to, and approved in writing by the Local Planning Authority showing louvre details to first floor front facing window serving the living accommodation to plots 1, 2 and 3. Once the amended plans have been agreed the development shall be carried out in accordance with these plans and retained as such thereafter.

Reason: In order to prevent overlooking towards neighbouring dwellings in accordance with policy DES4 of the East Herts District Plan 2019.

10. Prior to the occupation of the development hereby permitted details of the partitions between the first floor rear facing balconies to Blocks B and D shall be submitted to and approved in writing by

the Local Planning Authority. Once these details have been agreed the development shall be carried out in accordance with these details and retained as such thereafter.

Reason: In order to prevent overlooking towards neighbouring dwellings in accordance with policy DES4 of the East Herts District Plan 2019.

11. Prior to above ground works, details of the balustrades shown on drawing TWR-RTA-XX-XX-DR-A-00112 in relation to plots 16, 17, 18, 19 and 20 (within Block D) preventing access to the edge of these buildings together with details of the area between the balustrade and the edge of the building to demonstrate that this area would not be accessible, shall be submitted to and approved by the Local Planning Authority. Once these details have been agreed the development shall be carried out in accordance with these details and retained as such thereafter.

Reason: In order to prevent overlooking towards neighbouring dwellings in accordance with policy DES4 of the East Herts District Plan 2018.

12. At no time shall the single storey rear projections to plots 1 and 6 be used as a balcony.

In order to prevent overlooking towards neighbouring dwellings in accordance with policy DES4 of the East Herts District Plan 2018.

13. No development shall take place within the proposed development site until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to the Local Planning Authority in writing. This condition will only be considered to be discharged when the planning authority has received and approved an archaeological report of all the required archaeological works, and if appropriate, a commitment to the publication has been made.

Reason: To secure the protection of and proper provision for any archaeological remains in accordance with policy HA3 of the East Herts District Plan 2018 and the National Planning Policy Framework.

14. The development permitted by this planning permission shall be carried out in accordance with the approved the FRA carried out by EAS dated April 2020 reference 1513 Draft 5 and the following mitigation measures detailed within the FRA:
  1. Reducing the existing brownfield run-off rates to pre-development greenfield run-off rates, providing a discharge rate of 3.5l/s, with an overall discharge rate of 5.3l/s via a pumped system into the Main River along the western boundary of the development site.
  2. Provide surface water attenuation through appropriate SuDS measures following the SuDS hierarchy to manage the surface water run-off volumes.
  3. Managing and maintaining existing surface water overland flows within the site.
  4. Managing rainfall exceedance flow paths within the site
  5. Raising finished floor levels in accordance with Appendix I drawing 1791 SK12 Rev D dated 31 March 2020
  6. Providing a minimum of 2 surface water treatment stages from all roads and parking spaces to provide water quality treatment from surface water run-off.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory disposal of surface water from the site, to prevent an increase in flooding within the site and the surrounding area, to reduce the risk of

flooding to the proposed development and future occupants, to improve surface water quality discharge in accordance with policy WAT1 of the East Herts District Plan 2018.

15. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year + climate change (40%) critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall also include:

- Confirmation of infiltration rates across the development site and at the location of the proposed SuDs measures in accordance with BRE Digest 365 to demonstrate if infiltration of surface water is feasible across the site to allow option 1 drainage strategy within FRA 1513 dated April 2020 Draft 5 drawing SK20 Rev D dated 31 March 2020 to be implemented. If it is concluded infiltration is not feasible, option 2 drainage strategy within the FRA 1513 Draft 5 dated April 2020 drawing SK18 Rev D dated 31 March 2020 should be implemented.
- Confirmation of no contaminated land that would preclude the use of surface water infiltration measures. If it is concluded that contaminated land is present and would prevent the implementation of option 1 drainage strategy, option 2 drainage strategy should be implemented with appropriate measures.
- Confirmation of ground water levels across the site. If it is concluded that ground water levels would preclude the use of

infiltration measures that would prevent the implementation of option 1 drainage strategy, option 2 drainage strategy should be implemented. With appropriate measures.

- Following the conclusions of the ground investigation and ground water assessment, a full detailed drainage strategy should be submitted based on the feasible method of disposal that complies with option 1 or 2 within the FRA reference 1513 dated April 2020 Draft 5. This should include the location of all proposed SuDS measures, cross sections and dimensions of SuDS measures including the depth of the base of any proposed infiltration measures; connecting pipe networks including their diameters and any other associated infrastructure. This should also include detailed surface water drainage calculations for all rainfall events up to and including the 1 in 100 year + climate change (40%) event.
- Details of how the surface water overland flow path will be maintained with the north east corner of the site to prevent increasing flood risk to the surrounding area. Detailed proposed site levels should be provided to demonstrate how this will be managed.
- Details of the proposed minimum of 2 surface water quality treatment stages prior to discharge to ground and or to the Main River.
- Details of the adoption and maintenance of all proposed SuDS systems and associated infrastructure including how access will be maintained to the proposed outfall into the Main River and connecting pipe network located to the rear of the proposed properties in the north west corner of the development site.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to reduce the risk of flooding to the proposed development and future occupants, to

ensure the ongoing maintenance of the drainage scheme for its lifetime to prevent the risk of flooding from the proposed drainage scheme to the site and the surrounding area in accordance with policies WAT1 and WAT4 of the East Herts District Plan 2018.

16. Upon completion of the drainage works for each phase in accordance with the timing /phasing, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall include;
  1. Provision of complete set of as built drawings for site drainage including all SuDS features and associated infrastructure.
  2. Maintenance and operational activities.
  3. Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to reduce the risk of flooding to the proposed development and future occupants, to ensure the ongoing maintenance of the drainage scheme for its lifetime to prevent the risk of flooding from the proposed drainage scheme to the site and the surrounding area in accordance with policies WAT1 and WAT4 of the East Herts District Plan 2018.

17. The development shall be carried out in accordance with the submitted flood risk assessment; 'Tamworth Road, Hertford, Hertfordshire; Flood Risk Assessment' prepared by EAS (reference: 1513) and the following mitigation measure it details:
  - Finished flood levels shall be set no lower than 38.0m above Ordnance Datum (AOD).

This mitigation measure shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of

the development. Flood risk modelling undertaken by a third party has been used in support of this application and we have applied a risk based approach to the assessment of this model. In this instance a detailed review has been carried out. We have not undertaken a full assessment of the fitness for purpose of the modelling and can accept no liability for any errors or inadequacies in the model.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with policy WAT1 of the East Herts District Plan 2018.

18. The development hereby permitted shall not begin until a scheme to deal with contamination of land/ground gas/controlled waters has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
  1. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The Report shall have reference to “Contaminated Land Risk Assessment, Phase I Desk Top Study...” Report reference SES/TRH/HM/1#1 dated 20th November 2018 by Soil Environment Services Ltd. The report shall include a detailed quantitative human health and environmental risk assessment.
  2. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
  3. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate



remediation scheme which shall be submitted to and approved in writing by the local planning authority.

4. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To minimise and prevent pollution of the land and the water environment and in accordance with National Planning Policy guidance set out in section 11 of the National Planning Policy Framework, and in order to protect human health and the environment in accordance with policy EQ1 of the East Herts District Plan 2018.

19. Prior to the commencement of development a scheme shall be submitted for the protection of the dwellings from road traffic noise and railway noise and vibration for approval in writing by the Local Planning Authority. The scheme shall follow the recommendations identified in the "Noise Assessment Report, Tamworth Road." Report Reference JB-016470-ENV-REP-JRH-300420-R1, dated 30 April 2020 by ATSPACE Limited but also include a vibration assessment. No dwellings shall be occupied until the scheme providing protection for those dwellings has been implemented in accordance with the approved details and has been demonstrated to achieve the required noise levels to the satisfaction of the Local Planning Authority. The approved scheme shall be retained in accordance with those details thereafter.

Reason: In order to ensure an adequate level of amenity for residents of the new and existing dwellings in accordance with policy EQ2 of the East Herts District Plan 2018.

20. In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 08.00hrs Monday to Saturday, nor after 18.00hrs on weekdays and 13.00hrs on Saturdays, not at any time on Sundays or Bank Holidays.

Reason: In order to ensure an adequate level of amenity for residents of the new dwellings in accordance with policy EQ2 of the East Herts District Plan 2018.

21. Prior to the commencement of the development hereby permitted, a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, and the CEMP shall include the following:

- a) Construction Vehicle numbers, type and routing
- b) Traffic management requirements
- c) Construction and storage compounds (including areas designated for car parking)
- d) Siting and details of wheel washing facilities
- e) Cleaning of site entrances, site tracks and the adjacent public highway
- f) Timing of construction activities to avoid school pick up/drop off times
- g) Provision of sufficient on-site parking prior to commencement of construction activities.
- h) Post construction cleanness
- i) The construction programme and phasing
- j) Hours of operation, delivery and storage of materials
- k) Details of any highway works necessary to enable construction to take place
- l) Parking and loading arrangements
- m) Details of hoarding
- n) Management of traffic to reduce congestion
- o) Control of dust and dirt on the public highway
- p) Details of consultation and complaint management with local businesses and neighbours

- q) Waste management proposals
- r) Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour.
- s) Details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures.

All works shall be carried out in accordance with the approved CEMP thereafter.

Reason: In the interests of highway safety and the control of environmental impacts in accordance with policies TRA2, EQ2 and EQ4 of the East Herts District Plan 2018 and policies 5, 12, 17 and 22 of the Hertfordshire's Local Transport Plan (LTP4) (adopted 2018).

22. Prior to the first occupation of the development, measures shall be incorporated within the development to ensure that a water efficiency standard of 110 litres (or less) per person per day is achieved.

Reason: The Environment Agency has identified this area to be particularly water stressed and a reduction in water usage and increased water efficiency are necessary in accordance with Policy WAT4 of the District Plan 2018.

23. Details of any external lighting proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, and no external lighting shall be provided without such written consent. The development shall then be carried out in accordance with the approved details.

Reason: In order to ensure an adequate level of amenity for residents of the new dwellings in accordance with policy EQ3 of the adopted East Herts District Plan 2018.

24. Prior to the first occupation of the development hereby approved details of any communal television reception facilities proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development should be implemented in accordance with the approved details.

Reason: To prevent the proliferation of telecommunication facilities in the interests of amenity and good design in accordance with Policy DES4 of the East Herts District Plan 2018.

25. Prior to commencement of the development, additional plans shall be submitted to and approved in writing by the Local Planning Authority which show pedestrian dropped kerbs and tactile paving either side of the existing and new accesses to the site in accordance with the indicative drawing (ref. TWR-RTA-XX00Dr-A00301 Rev P5). These works shall be completed prior to the first occupation of the development hereby permitted and retained in that form thereafter.

Reason: To ensure safe and suitable accesses into the site in the interest of passing pedestrians in accordance with policy TRA2 of the East Herts District Plan.

26. Prior to the first occupation of the development hereby permitted, visibility splays shall be provided in full accordance with the details indicated on the approved plan (Ref-SK22-Rev D). The splays shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

Reason: In the interests of highways safety in accordance with policy TRA2 of the East Herts District Plan.

27. Before commencement of the development, additional plans must be submitted and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show

the provision of pedestrian dropped kerbs and tactile paving on either side of the following existing junctions:

- Junction at Tamworth Road/Meadow Close
- Junction at Tamworth Road/Raynham Street (across Raynham Street on its northern side)
- Junction at Talbot Street/Raynham Street (onto Talbot Street in north-south direction)
- Junction at Talbot Street/Currie Street (across Currie Street on its northern side)
- Junction at Talbot Street/Railway Place (across Railway Place on its northern side)
- Junction at The Springs/Tamworth Road

These works shall be completed prior to the first occupation of the development hereby permitted.

Reason: In the interest of sustainable travel in accordance with policy TRA1 of the East Herts District Plan 2018, in accordance with the NPPF paragraphs 108-110 and policies 1, 5, 7 and 8 of the Hertfordshire's Local Transport Plan (LTP4) adopted 2018).

28. Prior to first occupation of the development hereby permitted, all internal roads shall be constructed and all on site vehicular areas as shown on the drawing (TWR-RTA-XX00Dr-A00301 Rev P5) shall be accessible, surfaced and marked to ensure the satisfactory parking of vehicles within the site. Arrangement 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.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the premises in accordance with policy TRA2 of the East Herts District Plan 2018.

29. No development shall commence until full details have been submitted to and approved in writing by the Local Planning Authority in relation to the proposed arrangements for future

management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established.

Reason: To ensure satisfactory development of the site and to ensure estate roads are managed and maintained thereafter to a suitable and safe standard.

30. At least 3 months prior to the first occupation of the approved development a detailed Travel Plan for the site, based upon the Hertfordshire Council document 'Hertfordshire's Travel Plan Guidance', shall be submitted and approved in writing by the Local Planning Authority. The approved Travel Plan shall be implemented at all times.

Reason: To ensure that sustainable travel options associated with the development are promoted and maximised to be in accordance with Policies 3, 5, 7, 8, 9 and 10 of Hertfordshire's Local Transport Plan (adopted 2018).

31. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any amending Order, the areas shown for parking on the approved plan(s) shall be retained for such use in perpetuity.

Reason: In the interests of highway safety, in accordance with Policy TRA3 of the East Herts District Plan 2018.

32. The garage(s) and carports hereby approved shall be used for the housing of private vehicles solely for the benefit of the occupants of the dwelling of which it forms part and shall not be used as additional living accommodation or for any commercial activity.

Reason: To ensure the continued provision of off-street parking facilities and to protect neighbour amenity in accordance with Policy TRA3 of the East Herts District Plan 2018.

33. Notwithstanding the approved plans full elevation details of the car ports associated with blocks G and F shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of design and appearance of the development in accordance with policy DES4 of the East Herts District Plan 2018.

34. Notwithstanding the approved plans, prior to above ground works of the development hereby permitted a scheme for the parking of cycles including details of the design, level and siting of the proposed parking shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.

Reason: To ensure the provision of adequate cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport in accordance with Policies 1, 5 and 8 of Hertfordshire's Local Transport Plan (adopted 2018)

35. Prior to the commencement of the development hereby permitted details of the installation of and measures to facilitate the provision of electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include a timetable and method of delivery. Once approved, electric vehicle charging points shall be installed in accordance with the approved details and made available for use prior to first occupation.

Reason: In order to ensure the provision of appropriate infrastructure to support the future sustainability of the

development in accordance with policy DES4 of the East Herts District Plan 2018.

36. The development hereby approved shall be constructed in accordance with the climate change mitigation and water saving measures detailed in the submitted Energy and Sustainability Strategy.

Reason: To ensure appropriate climate change mitigation in accordance with Policies CC1, CC2, CC3 of the East Herts District Plan 2018.

37. Notwithstanding the details submitted within the Energy and Sustainability Strategy, details of the siting of the solar panels shall be submitted to and approved in writing by the Local Planning Authority and shall be installed in accordance with the approved details and maintained in that form thereafter.

Reason: To ensure the siting of the solar panels does not have a harmful impact on the character and appearance of the street scene and impacts the setting of the Conservation Area, in accordance with policies DES4 and HA4 of the East Herts District Plan 2018.

### Informatives

1. The proposed development is located within 15 metres of Thames Waters underground assets and as such, the development could cause the assets to fail if appropriate measures are not taken. Please read our guide 'working near our assets' to ensure your workings are in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures.  
<https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>. Should you require further information please contact Thames Water. Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk)



Phone: 0800 009 3921 (Monday to Friday, 8am to 5pm) Write to:  
Thames Water Developer Services, Clearwater Court, Vastern Road,  
Reading, Berkshire RG1 8DB.

2. The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:
  - on or within 8 metres of a main river (16 metres if tidal)
  - on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
  - on or within 16 metres of a sea defence
  - involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
  - in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit

<https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03702 422 549. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

3. During the demolition and construction phase the guidance in BS5228-1:2009 (Code of Practice for noise Control on construction and open sites) should be adhered to.
4. Prior to the commencement of demolition of the existing building, a survey should be undertaken in order to identify the presence of asbestos containing materials. Any asbestos containing materials should be handled and disposed of appropriately. Where necessary this should include the use of licensed contractors and waste disposal sites licensed to receive asbestos.

5. Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
6. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> telephoning 0300 1234047.
7. Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

8. Construction standards for works within the highway: The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.
9. Construction standards for new/amended vehicle access: Where works are required within the public highway to facilitate the new or amended vehicular access, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. If any of the works associated with the construction of the access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) the applicant will be required to bear the cost of such removal or alteration.
10. It is noted within the FRA there is a proposed pedestrian safe access and egress route. However, this route is shown to pass through flood water. It is therefore recommended that the applicant to undertake a detailed assessment in line with the Defra Preliminary Note - FD2320 Flood Hazard Ratings and Thresholds, to determine the depths and velocity of flood water and other possible hazards along the proposed route. Once this assessment has been carried out this should be submitted to the relevant LPA

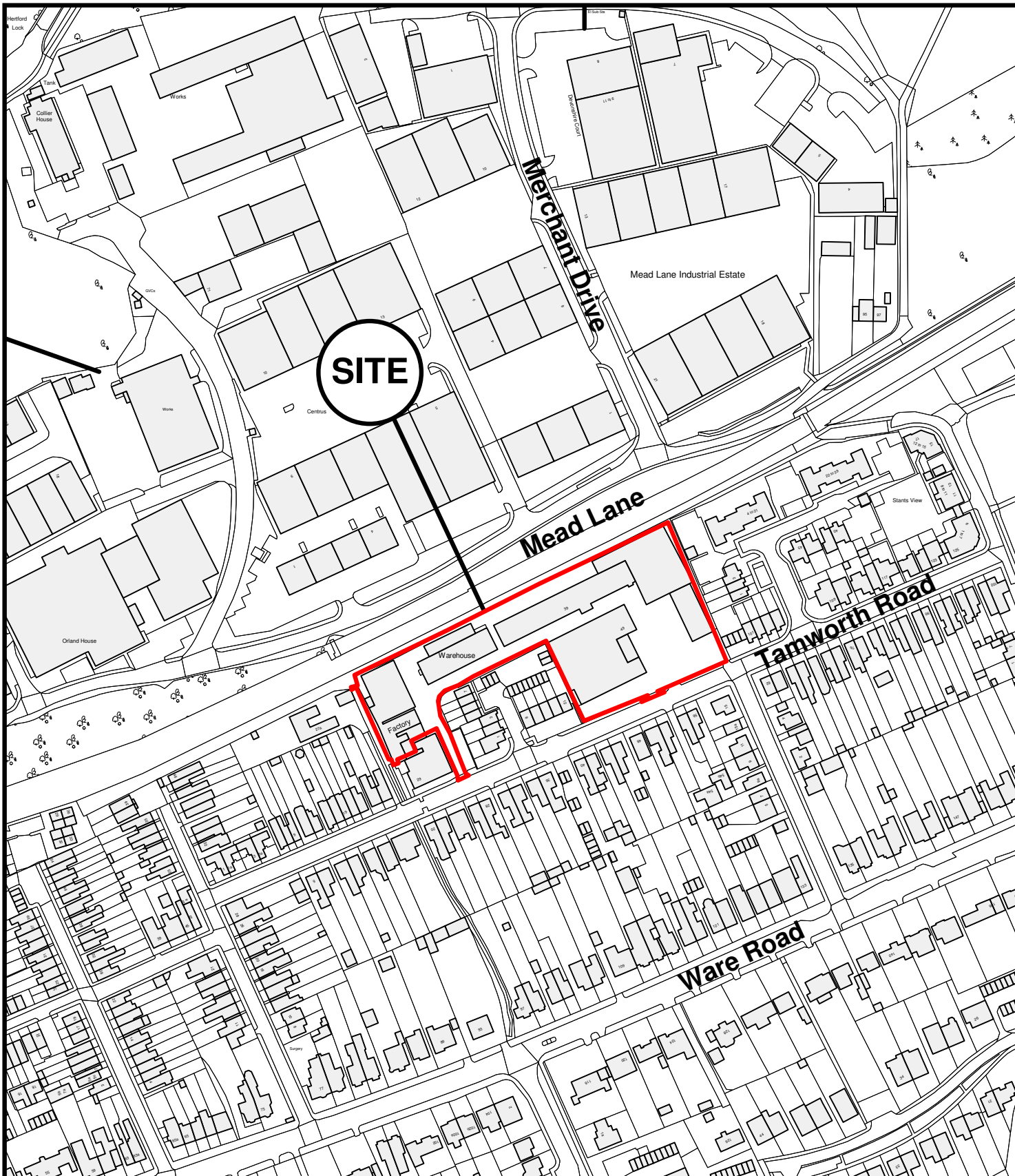
Emergency Planners for approval. For further advice on what we expect to be contained within the FRA to support an outline planning application, please refer to our Developers Guide and Checklist on our surface water drainage webpage <http://www.hertfordshire.gov.uk/services/envplan/water/floods/surfacewaterdrainage/> this link also includes HCC's policies on SuDS in Hertfordshire.

**KEY DATA**Residential Development

<b>Residential Density -</b>	<b>Bed Rooms</b>	<b>No of Units</b>
No of Flat units	1	5
	2	12
No of Houses	2	None
	3	14
	4	18
	5	None
Total		49
Total Affordable	2%	

<b>Parking Zone</b>	4	
Residential unit size (bedrooms)	Spaces Required per unit	Spaces required (total)
1	1.5	7.5
2	2	24
3	2.5	35
4+	3	54
Total Required		121 (when rounded up)
Accessibility Reduction	25%	
Resulting Requirement		90.5
Proposed total Provision		<b>102</b> (17 unallocated visitor spaces including 8 disabled spaces. 85 spaces allocated for residents, including 13 disabled spaces.

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**SG13 8EQ**  
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**Address: Hertford Mill Site, Tamworth Road, Hertford, SG13 7DL**

**Reference: 3/20/0897/FUL**

**Scale: 1:2500**

**O.S Sheet: TL3313**

**Date of Print: 20 January 2021**

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## DEVELOPMENT MANAGEMENT COMMITTEE – 3 FEBRUARY 2021

<b>Application Number</b>	3/19/0033/NMA
<b>Proposal</b>	Non-material amendment to 3/17/2588/OUT - Relocation of electricity substation from western elevation to northern elevation under Block A2 together with internal and external alterations to Blocks A1- A3 including internal re configuration of car park, introduction of cantilevered support to NE elevation and modification to roof form and building height.
<b>Location</b>	Bishops Stortford Goods Yard, Station Road, Bishops Stortford, Hertfordshire, CM23 3BL
<b>Parish</b>	Bishops Stortford Town Council
<b>Ward</b>	Bishops Stortford - Central

<b>Date of Registration of Application</b>	09 January 2019
<b>Target Determination Date</b>	12 November 2020
<b>Reason for Committee Report</b>	The Council's Constitution requires that in the case of Non-material Amendment applications that relate to major application sites the Chair of the Development Management Committee and one ward Councillor must agree in writing that the application may be determined under delegated authority. In this case, the required agreement has not been forthcoming and the application is therefore reported to Committee for determination.
<b>Case Officer</b>	Femi Nwanze

## **RECOMMENDATION**

That the non-material amendment to planning permission 3/17/2588/OUT be **GRANTED**.

### **1.0 Summary of Proposal and Main Issues**

- 1.1 This application seeks confirmation from the Local Planning Authority that the following alterations to planning permission 3/17/2588/OUT do not constitute a material change to the original planning permission or a substantial alteration of the original permission:
- Relocation of electricity substation from western elevation to northern elevation under Block A2;
  - Internal and external alterations to Blocks A1- A3 including internal re configuration of car park;
  - Introduction of cantilevered support to NE elevation and modification to roof form and building height.
- 1.2 Section 96A of the Town and Country Planning Act 1990 (as amended), allows a Local Planning Authority in England to make a change to any planning permission relating to land in its area if it is satisfied that the change is not material to the planning permission.
- 1.3 The legal authority to make non-material changes to planning permission further to the original grant of planning permission acknowledges the reality that throughout the design and build stages of development projects it is not uncommon that new or unforeseen issues may arise (either prior to or during the implementation phase) that will require making an amendment to the originally consented plans.
- 1.4 An application for a Non-material Amendment to an existing planning permission is not a planning application and there is no statutory requirement for third party consultation.

- 1.5 The National Planning Practice Guidance advises that there is no statutory definition of 'non material'. This is because it will depend on the context of the overall scheme; accordingly an amendment that is non-material in one context may be material in another.
- 1.6 The main issue for Members consideration is therefore, having regard to the nature and quantum of development that has been granted by planning permission 3/17/2588/OUT (for the comprehensive redevelopment of the Goods Yard Site) whether or not the proposed changes proposed in this Non-material amendment application significantly and materially alter the nature and quantum of development for which planning permission has been granted.

## **2.0 Site Description**

- 2.1 The site is located within the central part of Bishop's Stortford, south of the town centre and comprises of approximately 5.83 hectares of brownfield land. Construction work is currently underway to implement planning permission 3/17/2588/OUT for the comprehensive redevelopment of the site to provide a mixed use scheme of housing and commercial floorspace.

## **3.0 Planning History**

<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
3/20/0702/FUL	Top deck (floors 10 and 11) lighting strategy at the Goods Yard multi-storey car park, to provide a total of 4 twin lighting columns and 8 wall-mounted lighting fittings.	Granted	09/06/2020

3/19/0953/NMA	Non-material amendment to the LPA's approval 3/17/2588/OUT (A hybrid planning application for the comprehensive redevelopment of the 5.82 ha Goods Yard site for mixed use purposes) Amendments to multi-storey car park, including internal reconfiguration of car park and external elevation changes in line with construction requirements	Granted	31/10/2019
3/19/0367/NMA	Non-material amendment to planning permission 3/17/2588/OUT (for the comprehensive redevelopment of the Goods Yard Site for mixed use development). The proposed alterations relate to the approved hotel only and include internal and elevational alterations, together with the provision of a plant room at roof level. Alterations to the hotel only, including elevational alterations and provision of a plant room at roof level.	Granted	06/06/2019

3/17/2588/OUT	<p>Comprehensive redevelopment of the 5.82 ha Goods Yard site for mixed use purposes comprising - 586 residential units (Use Class C3); 3,004sqm of office floorspace (Use Class B1); 1,001sqm of retail floorspace (Use Class A1-A4); 491sqm of dual / alternative use retail and health care floorspace (Use Classes A1-A4 / D1); 85 bed hotel (Use Class C1); a care home comprising up to 55 units (Use Class C2); a new link road through the site connecting Station Road /Dane Street with London Road; two multi-storey station car parks (966 spaces); new cycle parking; car parking for the residential development; improvements to the Bishops Stortford transport interchange; new and altered access points from the adopted highway network; and associated landscaping and public realm works. The full application; Development up to 6 storeys in height providing 323</p>	Granted	18/07/2018
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	<p>residential units (139 x 1bed units, 175 x 2bed units, 8 x 3bed units and 1x4 bed units use class C3 ), 3004 sq. m of office space (use class B1), 1001 sq. m of retail floorspace (use classes A1- A4), 491 sqm of dual / alternative use retail and health floorspace (Use classes A1- A4/D1), a 4 storey 85 bed hotel (use Class C1), a new link road through the site connecting Station Road/Dane Street with London Road, one 6 storey (401 space) multi storey station car park, new cycle parking, 153 car parking spaces for the residential development. The outline application (all matters reserved except for access) comprises: 263 residential units (Use Class C3); a care home comprising up to 55 units (Use Class C2); one multi-storey station car park; new cycle parking; car parking for the residential development; and associated landscaping and public realm</p>		
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#### **4.0 Main Policy Issues**

- 4.1 Consideration of the proposals for the development having regard to the main policy issues in the East Herts District Plan 2018 or the National Planning Policy Framework (NPPF) was undertaken in determining application 3/17/2588/OUT.

#### **5.0 Consultee Responses**

- 5.1 The National Planning Practice Guidance (NPPG) sets out that as an application to make a non-material amendment is not an application for planning permission, the existing Town and Country Planning (Development Management Procedure) (England) Order 2015 provisions relating to statutory consultation and publicity do not apply. Accordingly, no external consultation has been carried out by the local planning authority in this case.
- 5.2 Conservation and Urban Design Team – responded that no objections were raised to the relocation of the substation, but concerns were raised in respect of other elements of the proposed changes including the removal of the external staircase to the podium gardens.
- 5.3 The proposed plans have now been revised to address these concerns, and the proposed external staircase has been reinstated.
- 5.4 Concerns were also raised regarding clarity issues on the drawings as follows:
- On the east Elevation A1 – A3 (marked B) at ground floor level there were two black squares, where it was unclear what was being proposed. This issue has now been addressed and these are labelled as aluminium louvered doors;

- On the West Elevation A1- A3 (marked F) the doors and windows did not line up between floors.
- On the East Elevation A1 – A3 ( marked B) at fifth floor level a 3D view (1800045- PL-020) that has now been provided has communicated the proposals far more clearly. It is now clear that what was thought to be projecting dormers are actually the surrounds to recessed balconies. We find the proposed approach to be acceptable.

5.5 The Conservation and Urban Design Team have confirmed that all of the issues raised with this application have now been addressed, and they have no objections to its approval.

5.6 Ward Councillors

5.7 Councillor Cutting does did not agree to the application being determined under delegated authority. In arriving at his decision he made the following comments:

- This case history reflects a series of mistakes and missed opportunities that should have been dealt with much earlier in the process by Solum and whoever they contracted the build out to and which are now having to accommodate retrospectively.
- I am totally opposed to this situation, the lift over run was resolved in the car park after Cllr Page and I objected so I fail to see how it cannot be resolved again. I question why members should be expected to agree unsightly solutions for errors of the past. I think Bellway and Solum need to get their thinking hats on and come up with a solution instead of simply depending on an NMA to get them out of a problem.
- I am pleased floor to ceiling heights are being reduced resulting in a marginal reduction in the height of the building



and amendment to the roof profile will not result in additional dwellings.

- Whilst I appreciate the Conservation and Design Team have expressed an opinion I fail to appreciate how a lift over run can possibly contribute to high standards of design given this was a mistake in the first place and is now relying on an NMA to put it right.
- I am also concerned the addition of the cantilever is only now identified as essential to ensure structural stability. Not very convincing we have a good design or build here is it?

## **6.0 Considerations**

- 6.1 Planning permission 3/17/2588/OUT relates to the comprehensive redevelopment of the Goods Yard at Bishops Stortford. The planning permission will be built out in phases due to its overall size. There are 10 phases associated with this planning permission.
- 6.2 This application relates to Phase 1D which relates to Plot A (Blocks A1 – A5) of the planning permission which comprises a mixture of commercial units and residential units in buildings that are 5 and 6 storeys in height.
- 6.3 Bellway Homes are building out Phase 1D of the overall proposals their architects have identified a number of issues concerning this part of the overall development which require amendment; consent for which is sought by a non material amendment submission .
- 6.4 The full list of the amendments proposed are:-
- 6.5 South Elevation (Block A3)
- (Authorised) Roof dormer (erroneously omitted from previously consented plans) now shown on south elevation.
  - Modification to windows

- Insertion of ground floor entrance

#### 6.6 East Elevation Blocks A1 – A3

- Cantilevered corner introduced to building design for structural support
- Alterations to ground floor shop fronts/openings
- Modifications to size of roof lights
- Correction to drawing errors relationship of roof alignment above doors to recessed balconies

#### 6.7 North Elevation Block A1

- Corrections to size of roof lights
- Introduction of automatic opening vent and opening vents a roof level to comply with Building Regulations
- Amended entrance to relocated sub station

#### 6.8 West Elevation Block A1

- Amendment to elevational plan to show position of consented balconies (erroneously omitted from previously consented plan)

#### 6.9 South Elevation Block A

- Position of lift over – run shown and automatic opening vents shown
- Introduction of balconies to right hand elevation

#### 6.10 West Elevation Blocks A1 – A3

- Position of automatic opening vents shown at roof level
- Revision to fenestration details

#### 6.11 Ground floor Blocks A1 – A5

- Minor internal reconfiguration of car parking and cycle spaces
- Provision of additional internal plant room
- Internal re location of sub station

6.12 It is acknowledged that the list of changes proposed are extensive. However, in assessing whether these alterations can be regarded

as non-material amendments consideration needs to be given to the full extent of the planning permission that has been granted on this 5.82ha site. That is whether or not the changes in the context of the overall development proposed represent a significant change to the appearance and overall nature of the development consented for the entire site.

- 6.13 The most significant change relates to the internal relocation of the electricity substation from its original position adjacent to the residential car park entrance to a position opposite the proposed hotel. This change is required in order to take advantage of the positioning of mains cables which are proposed to serve the hotel; enabling both developments to share this facility.
- 6.14 The proposed change to the location of the substation has necessitated some minor internal reconfiguration of the ground floor car park area; with cycle spaces storage areas and wheel chair accessible spaces being moved. However these alterations are considered to be acceptable.
- 6.15 External changes comprise of a requirement to correct a number of draughting errors on the original plans which have surfaced including showing the correct position of the side elevation dormer and correcting the relationship between external doors and recessed balconies on the elevational plans, amending the roof line to show the lift over run and correction to the size of roof lights on the north elevation.
- 6.16 It is assessed that the lift over run will make a very modest adjustment to the overall appearance of the roof form; being limited solely to where the lift is to be positioned within the building. It will not be visible from the principal (commercial front elevation) and will be indistinguishable in the context of the overall roof form and appearance of buildings that are 5 and 6 storeys in height.

- 6.17 Further external changes that are required have arisen due to the need to comply with structural and fire safety requirements in compliance with the Building Regulations outlined by Building Control. In this regard a cantilevered structural support system on the NE corner of the building is proposed together with, the addition of automatic opening vents and opening vents in order to meet fire regulations, modification (reduction) to the overall height of the building (and in turn floor to floor heights) to comply with fire regulations. The cantilevered support is a modest addition to the elevational appearance of the building: it will comprise of 2 single columns that will be positioned between the ground and first floor level under the cantilvered section of the building with a respective width of approximately 0.6 metres.
- 6.18 These additions will not be noticeable in the context of the either the ground floor elevations (which will comprise of shop fronts) or the full elevational appearance of the 5/6 storey development. Therefore the proposed changes are considered to be acceptable and it is assessed that they would not materially alter the nature of the originally consented scheme when consideration is given to the full extent of the overall development.
- 6.19 In addition to the above, the applicant seeks to introduce elevational changes in the form of an amendment to the roof pitch to enable more of the roof area to be useable and the introduction of rainwater pipes on the elevations. The rainwater pipes proposed to the east elevation of blocks A1 – A3 and the north elevation of Block A1 are proposed to match the façade colour so as not to be conspicuous. These details are again considered to be acceptable and it is assessed that they would not materially alter the nature of the full extent of the overall development.

## **7.0 Conclusion**

- 7.1 The proposed amendment to Blocks A1 - 3 comprising of the relocation of the electricity substation from the western elevation to the northern elevation of the block, the introduction of a

cantilevered support column to the NE corner of the development and the various external and internal alterations as referred to above are considered to be alterations that are non- material in nature when considered in the context of the extent of the overall approved development for the Goods Yard Site.

- 7.2 Consideration has been given to Policy DES4 of the East Herts District Plan 2018 which requires development to achieve a high standard of design. The Conservation and Urban Design Team are satisfied that the changes outlined above maintain the quality of development approved in in planning permission 3/17/2588/OUT.

## **8.0 RECOMMENDATION**

- 8.1 That Non Material Amendment application 3/19/0033/NMA be **Granted** for the following reason:-

The proposed amendments as outlined on drawings numbers:

041\_PL-A-01 Rev A, 041\_PL-A-02 Rev A, PL-000 Rev P5, PL-001 Rev P3, PL- 002 Rev P3, PL-003 Rev P3, PL-004 Rev P3, PL-005 Rev P3, PL-006 Rev P3, PL-010 Rev P5, PL-011 Rev P4 and PL- 020 Rev P1 accords with the provisions of Section 96A of the Town and Country Planning Act 1990 (as amended), and would not be materially different from the original planning permission granted ref 3/17/2588/OUT.

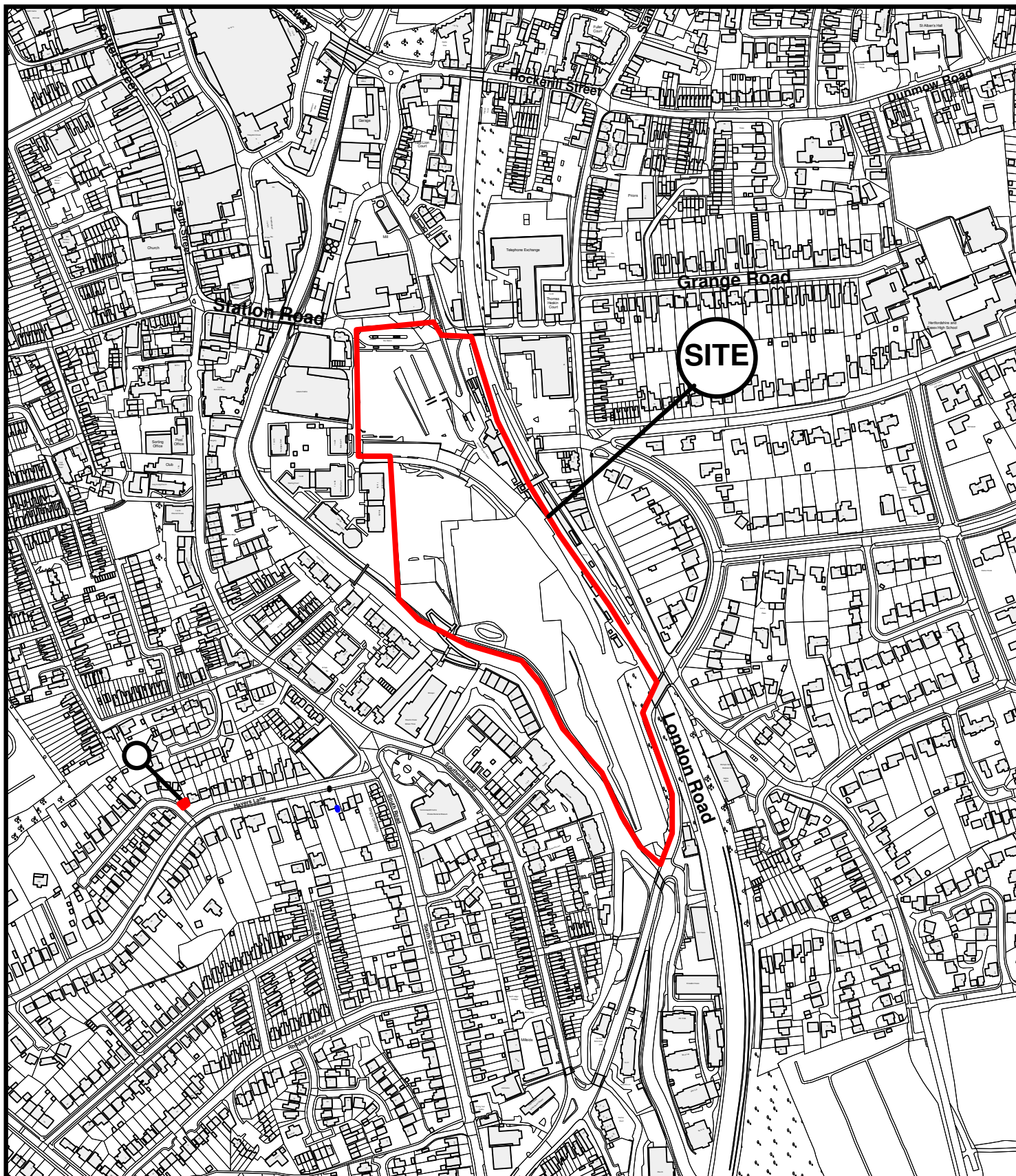
### **Informatives:**

1. The applicant is advised that this non-material minor amendment approval is hereby granted solely in respect of the amendments outlined in this decision notice. The approved plans for planning permission reference 3/17/2588/OUT and its conditions are not otherwise superseded, and shall therefore continue to apply.
2. The applicant is advised that the approval of these plans does not imply that the materials referred to are acceptable and neither

does it override the requirement to comply with condition 17 (Details to be approved (materials) of the planning permission reference 3/17/2588/OUT. A submission pursuant to condition 17 should be made to seek approval for proposed materials.

### **Plans**

<b>Plan Ref</b>	<b>Version</b>	<b>Received</b>
041_PL-A-01	A	09.01.2019
041_PL-A-02	A	09.01.2019
PL- 000	P5	15.10.2020
PL- 001	P3	01.06.2020
PL-002	P3	01.06.2020
PL-003	P3	01.06.2020
PL-004	P3	01.06.2020
PL-005	P3	01.06.2020
PL-006	P3	01.06.2020
PL-010	P5	15.10.2020
PL-011	P4	09.07.2020
PL-020	P1	15.10.2020



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**East Herts Council**  
 Wallfields  
 Pegs Lane  
 Hertford  
 SG13 8EQ  
 Tel: 01279 655261

**Address: Bishops Stortford Goods Yard, Station Road,  
 Bishops Stortford, CM23 3BL**

**Reference: 3/19/0033/NMA**

**Scale: 1:5000**

**O.S Sheet: TL4920**

**Date of Print: 21 January 2021**

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**EAST HERTS DISTRICT COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE  
ITEMS FOR REPORT AND NOTING  
November 2020**

<b>Application Number</b>	3/19/0849/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	GrasslandsPye CornerGilstonHarlowHertfordshireCM20 2RB
<b>Appellant</b>	Mrs A May And Mrs C Reilly
<b>Proposal</b>	Widening of access
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/19/1148/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	The White Horse InnHigh RoadHigh CrossWareHertfordshireSG11 1AA
<b>Appellant</b>	Mr Sean Coleman
<b>Proposal</b>	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.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/19/1149/LBC
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	The White Horse InnHigh RoadHigh CrossWareHertfordshireSG11 1AA
<b>Appellant</b>	Mr Sean Coleman
<b>Proposal</b>	Refurbishment and change of use of The White Horse public house (listed building), to create 3no. two bedroom dwellings.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/19/1423/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Sayes Park FarmHigh Wych RoadHigh WychSawbridgeworthHertfordshireCM21 0JE
<b>Appellant</b>	Mr A Greenall
<b>Proposal</b>	Change of use from agricultural to residential. Conversion of barn to 2no. 2 bedroom dwellings and the creation of 6no. car parking spaces.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/19/1503/VAR
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Bury Farm CottageGreat HorneadBuntingfordHertfordshireSG9 0NS
<b>Appellant</b>	Mr & Mrs M Wyld
<b>Proposal</b>	Variation of Condition 2 (approved plans) of LPA approval 3/17/0174/VAR - Variation of condition 2 (approved plans) of LPA approval 3/14/1112/FP - Change of use of existing buildings to create three 3 bedrooomed dwellings, three 4 bedrooomed dwellings, one five bedrooomed dwelling, provision of outbuildings, garages and office with associated landscaping and access. Demolition of grain store, ancillary building and structures. Revised design to unit 7, resulting in new layout and external appearance - Revised proposal to the agricultural barn, resulting in retaining and reusing instead of demolition.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/19/2003/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Land Opposite 44-58 Chapel LaneLetty GreenHertfordHertfordshireSG14 2PA
<b>Appellant</b>	Mr Mick Sandford
<b>Proposal</b>	Erection of new dwelling with separate garage associated landscaping and creation of new driveway.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/19/2169/OUT
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Pole Hole FarmPye CornerGilstonHertfordshire
<b>Appellant</b>	.
<b>Proposal</b>	Outline planning permission for demolition of agricultural barn and erection of 5no. dwelling houses - all matters reserved except from landscaping.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/19/2241/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	GrasslandsPye CornerGilstonHarlowHertfordshireCM20 2RB
<b>Appellant</b>	Mrs And Mrs A May And C Reilly
<b>Proposal</b>	Improvements to access by widening.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/19/2242/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	10 Brickendon GreenBrickendonHertfordHertfordshireSG13 8PB
<b>Appellant</b>	Mr And Mrs N And J Rorke
<b>Proposal</b>	Construction of part single storey / part two storey rear extension and 1 side dormer window.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/19/2285/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Corner Cottage10A Brickendon GreenBrickendonHertfordshireSG13 8PB
<b>Appellant</b>	Mr And Mrs N And J Rorke
<b>Proposal</b>	Demolition of outbuildings. Erection of detached one bedroom bungalow, to include creation of new access and 4 additional parking spaces.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/19/2535/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	28 Rowney GardensSawbridgeworthHertfordshireCM21 0AT
<b>Appellant</b>	Mr K Hawkins
<b>Proposal</b>	Demolition of side garage and removal of chimney stacks. Erection of single storey front, side, rear and two storey side and rear extensions. New vehicle access onto Rowney Gardens and proposed access gates and front boundary wall.
<b>Appeal Decision</b>	Part Allowed

<b>Application Number</b>	3/19/2613/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	11 Burnham Green RoadDatchworthKnebworthHertfordshireSG3 6SE
<b>Appellant</b>	Mr M Wager
<b>Proposal</b>	First floor front extension.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/20/0201/SV
<b>Decsn</b>	
<b>Level of Decision</b>	
<b>Address</b>	The Cock InnGinns RoadStocking PelhamBuntingfordHertfordshireSG9 0HZ
<b>Appellant</b>	
<b>Proposal</b>	Application to discharge obligations contained within a section 106 agreement.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/20/0307/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Land Adjacent To Lorne CroftWellpond GreenStandonWareHertfordshireSG11 1NJ

<b>Appellant</b>	Mr And Mrs L And M Petrie
<b>Proposal</b>	Erection of one, four bedroomed dwelling with associated driveway and amenity area
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/20/0337/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Dalmonds Wood FarmMangrove LaneBrickendonHertfordHertfordshireSG13 8QJ
<b>Appellant</b>	Mr Eamon Bourke
<b>Proposal</b>	Change of use of existing disused reservoir from agricultural use to recreational use in the form of private fishing and the installation of a small boat to be let for holiday accommodation in association with the private fishing use.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/20/0635/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Land R/O 138 Hertingfordbury RoadHertfordHertfordshireSG14 2AL
<b>Appellant</b>	Mr C Johnson
<b>Proposal</b>	Erection of a 3 storey building containing with 4 flats together with associated works including provision of light wells, terraces, parking, cycle and bin stores.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/20/0636/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Land Adj Walnut Tree HouseAcorn StreetHunsdonWareHertfordshireSG12 8PG
<b>Appellant</b>	Mr And Mrs P And M Morris
<b>Proposal</b>	Conversion of stable, hay and tack store to create 1 three bedroomed dwelling, with external alterations and creation of parking
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/20/0652/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Land Adjacent To Barwick LodgeBarwickHigh CrossHertfordshireSG11 1DB
<b>Appellant</b>	Chaldean Estates Ltd
<b>Proposal</b>	Change of use of outbuilding to create 1 residential two bedroom dwelling, with new window and door openings, and replacement roof and a new chimney. Construction of external retaining wall and creation of 2 off street car parking spaces.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/20/0723/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	LanbrookSt Marys LaneHertingfordburyHertfordshireSG14 2LD
<b>Appellant</b>	Mr And Mrs Mullins
<b>Proposal</b>	Construction of a 5-bedroom replacement dwelling.
<b>Appeal Decision</b>	Dismissed

#### 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 Decisions

Site visit made on 10 November 2020

**by M Chalk BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 November 2020**

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### **Appeal A Ref: APP/J1915/W/20/3246744 Grasslands, Pye Corner, Gilston CM20 2RB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs A May and Mrs C Reilly against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/2241/FUL, dated 1 November 2019, was refused by notice dated 2 January 2020.
  - The development proposed is described as improvement to existing access to Grasslands.
- 

### **Appeal B Ref: APP/J1915/W/19/3240379 Grasslands, Pye Corner, Gilston CM20 2RB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs A May and Mrs C Reilly against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/0849/FUL, dated 24 April 2019, was refused by notice dated 3 July 2019.
  - The development proposed is described as improvement to existing access to Grasslands.
- 

## **Decisions**

1. Appeal A is allowed and planning permission is granted for improvement to existing access to Grasslands at Grasslands, Pye Corner, Gilston, CM20 2RB in accordance with the terms of the application, Ref 3/19/2241/FUL, dated 1 November 2019 subject to the conditions set out in Schedule 1.
2. Appeal B is allowed and planning permission is granted for improvement to existing access to Grasslands at Grasslands, Pye Corner, Gilston, CM20 2RB in accordance with the terms of the application, Ref 3/19/0849/FUL, dated 24 April 2019 subject to the conditions set out in Schedule 2.

## **Application for costs**

3. An application for costs was made by Ms A May and Mrs C Reilly against East Hertfordshire District Council. This application is the subject of a separate Decision.

## **Procedural Matters**

4. As set out above there are two appeals on this site. I have considered each on its individual merits but, as they only differ in the proposed width of the access, I have dealt with the two proposals together to avoid duplication.
5. At the time of my site visit the boundary wall to The Bungalow had already been reduced in length as indicated on the submitted plans. The appeals have been determined accordingly.

## **Main Issues**

6. The main issues in both cases are:
  - Whether the proposals would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework and any relevant development plan policies; and,
  - The effect of the proposals on the character and appearance of the surrounding area.

## **Reasons**

### *Whether inappropriate development*

7. The appeal site lies in the Green Belt. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt. The Framework identifies certain developments as not inappropriate provided that they preserve Green Belt openness and do not conflict with the purposes of including land within it. Engineering operations are identified as one of those exceptions. Policy GBR1 of the East Herts District Plan 2018 (the DP) states that applications in the Green Belt will be considered in line with the provisions of the Framework.
8. The Council have drawn to my attention an appeal finding that creation of a hardstanding amounted to building works rather than engineering operations. However, in that case the appeal related to a large expanse of hardstanding within the grounds of a farm, so is significantly different to the appeal proposals which relate to the widening of an existing highway access. The Town and Country Planning Act 1990 states that engineering operations include the formation or laying out of means of access to highways. The appeal proposals therefore constitute engineering operations.
9. Either appeal proposal would result in some loss of greenery at the site and an increase in the area of tarmac surface. However, the scale of development in either instance would be relatively modest given the existing access. In addition, there is an improvement to the spatial openness from the reduction of the boundary wall at the highway edge. Overall, neither development would be harmful to the purposes of including land within the Green Belt.
10. The Council have further referred to decisions relating to houses in the grounds of Pinewood School in Ware, where two vehicular accesses were found to be harmful to the openness of the Green Belt. However, those proposals differ in that there were no existing accesses to those houses. Only limited weight can therefore be accorded to these decisions in determining these appeals.
11. The appeal proposals would be engineering operations that would preserve Green Belt openness and would not conflict with the purposes of including land

within the Green Belt. They would therefore not be inappropriate development, in accordance with Policy GBR1 of the DP and the provisions of the Framework.

#### *Character and Appearance*

12. The increased hard surface would cause some loss of rural character from the site. However, this must be considered in the wider context of the street scene, which comprises a mix of dwellings and the nearby village hall. This side of the road has a more suburban character due to the relatively small plots and close siting of the houses to the road. Within this context the increased hard surfacing, whether that proposed under Appeal A or Appeal B, would not appear unduly out of keeping in the area.
13. The developments proposed would therefore not be harmful to the character and appearance of the surrounding area. They would accord with policies DES3 and DES4 of the DP which seek to ensure, amongst other criteria, that development proposals respect the character of the site and the surrounding area.

#### *Other Considerations*

14. Third parties have questioned the need for a wider access to the property. However, as there would be no harm by reason of inappropriateness or harm to the character or appearance of the area, it is not necessary to consider whether the appeal proposals are necessary.
15. In addition, concerns have been raised regarding the potential for future development at the site. However, any such future development would be subject to control by the Council and does not fall to be considered as a part of these appeals.

#### **Conditions**

16. I have imposed the standard conditions relating to commencement of development and confirming the approved plans for both appeals.
17. Given the rural character of the wider area and the proposed increase in hard surfacing of the site, a condition requiring landscaping of the appeal site is necessary in each case to ensure that the development would not appear harmful in the street scene.
18. I have also imposed conditions to secure the provision of the proposed visibility splays. This is to ensure that the development would result in a safer access for users of the highway.

#### **Conclusion**

19. For the reasons set out above, the appeals succeed.

*M Chalk*

INSPECTOR

**Schedule 1: Conditions for Appeal A Ref: APP/J1915/W/20/3246744,  
Council Ref: 3/19/2241/FUL**

- 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: Plan 01, 2019/4713/001 Rev. E, 2019/4713/007 Rev. A and 2019/4713/009.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping for the site, including a timetable for implementation. The scheme shall thereafter be carried out in accordance with the approved details.
- 4) The visibility splays shown on 2019/4713/001 Rev. E shall be provided in accordance with that drawing concurrently with the widening of the access and shall be retained thereafter.

**Schedule 2: Conditions for Appeal B Ref: APP/J1915/W/19/3240379,  
Council Ref: 3/19/0849/FUL**

- 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: Plan 01 Rev. A, 2019/4713/001 and 2019/4713/007.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping for the site, including a timetable for implementation. The scheme shall thereafter be carried out in accordance with the approved details.
- 4) The visibility splays shown on 2019/4713/001 shall be provided in accordance with that drawing concurrently with the widening of the access and shall be retained thereafter.





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## Costs Decision

Site visit made on 10 November 2020

**by M Chalk BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 November 2020**

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### **Costs application in relation to Appeal Ref: APP/J1915/W/20/3246744 Grasslands, Pye Corner, Gilston CM20 2RB**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mrs A May and Mrs C Reilly for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of planning permission for improvement to existing access to Grasslands.
- 

### **Decision**

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

### **Reasons**

2. National Planning Practice Guidance (the PPG) advises that costs may be awarded against a party that has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Unreasonable behaviour on the part of a local planning authority may include making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis or unreasonably refusing planning applications, failure to produce evidence to substantiate each reason for refusal on appeal or preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicants claim that the Council has mistakenly identified the proposal as a building operation rather than engineering operations. The Council relied on prior appeal decisions to inform its view, where the circumstances and nature of those proposals were not comparable to this appeal proposal. The Council failed to give appropriate weight to the applicants' fallback position of widening the existing driveway through their property's Permitted Development allowances. As the appeal proposal was the second submission for similar development at the site, and as an appeal had been lodged against the earlier refusal, the applicants had made submissions addressing the Council's similar concerns.
5. The Council responds that it was justified in regarding the appeal proposal as inappropriate development in the Green Belt for which very special circumstances did not exist that would clearly outweigh the harm by inappropriateness and any other harm. They consider that the applicants'

fallback position may be limited, as the Grasslands site comprises both a dwellinghouse and a commercial unit. The position regarding the Permitted Development allowance for the formation of hardstandings within the site is therefore unclear.

6. The applicants contend that the access and adjoining lands are within the residential curtilage of Grasslands so benefit from domestic Permitted Development rights.
7. I found in my decision that in this instance the appeal proposals would amount to engineering operations and would not be inappropriate development in the Green Belt. However, this was a matter of planning judgment and I do not consider that the Council acted unreasonably in finding otherwise.
8. Furthermore, whether the Grasslands site benefits from domestic Permitted Development rights or not is unclear. The full details of the planning permission relating to the B1 use of one of the outbuildings at the site are not before me, but a mixed-use site would not have the same Permitted Development rights as a dwellinghouse, and the access serves the entire site, passing the dwellinghouse to reach the outbuildings. In the absence of clear evidence on this point, I do not consider that the Council acted unreasonably in giving limited weight to this as a fallback position.

### **Conclusion**

9. Having considered the submissions made by both parties, together with the evidence submitted with the appeal, I find that there was not unreasonable behaviour on the part of the Council, as described in the PPG, that has directly resulted in unnecessary or wasted expense on the part of the applicants. The application therefore fails, and no award of costs is made.

*M Chalk*

INSPECTOR



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## Appeal Decisions

Hearing Held on 3 November 2020

Site visit made on 4 November 2020

**by H Butcher BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 November 2020**

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### **Appeal A: APP/J1915/W/20/3245571**

#### **The White Horse Inn, High Road, High Cross SG11 1AA**

- 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 Sean Coleman against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/1148/FUL, dated 30 May 2019, was refused by notice dated 26 July 2019.
  - The development proposed is refurbishment and change of use of The White Horse public house (Listed Building) to create 3 no. two bedroom dwellings together with the construction of 4 no. three bedroom dwellings (revised application to LPA Refs. 3/17/1258/FUL & 3/17/1259/LBC).
- 

### **Appeal B: APP/J1915/Y/20/3245561**

#### **The White Horse Inn, High Road, High Cross SG11 1AA**

- 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 Sean Coleman against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/1149/LBC, dated 30 May 2019, was refused by notice dated 26 July 2019.
  - The works proposed are refurbishment and change of use of The White Horse public house (Listed Building) to create 3 no. two bedroom dwellings together with the construction of 4 no. three bedroom dwellings (revised application to LPA Refs. 3/17/1258/FUL & 3/17/1259/LBC).
- 

### **Decision**

1. The appeals are dismissed.

### **Preliminary Matters**

2. The description of works on the application form is the same for both appeals. However, s.7 of the Planning (Listed Buildings and Conservation Areas) Act 1990, sets out that listed building consent is only required for any works for the demolition of a listed building, or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest. On that basis, listed building consent would not be required for the change of use of The White Horse Inn to residential use, or the construction of 4 no. three bedroom dwellings as proposed. However, listed building consent would be required for the works of alteration required to

provide 3 no. two bedroom dwellings in the listed building. I have therefore dealt with the s.20 appeal on that basis.

3. The White Horse Inn lies within the setting of a number of other listed buildings which include The Old Waggon (Grade II\*) immediately adjoining the site to the south. As such I have had regard to my statutory duties under s.66(1). The Council found no harm in this respect, and similarly, given the minimal changes to the front of the site, I find no harm in this regard either.

### **Main Issues**

4. A main issue in both appeals is the effect of the proposed development/works on the special architectural and historic interest of The White Horse Inn, which is Grade II listed, and its setting. In Appeal A there is a further issue of the effect of the proposed development on the local community.

### **Reasons**

#### *The White Horse Inn*

5. The White Horse Inn dates from the late 17<sup>th</sup> Century. The oldest part of the building which fronts High Road is timber frame plastered with weatherboarding detailing to the sides; a known historic vernacular of the area. It sits within a group of other historic buildings at the core of High Cross. In terms of layout it has a 'lobby-entrance plan' in which the original entrance is directly in front of the chimney stack with two main rooms either side. This is a typical domestic plan for the period of construction of the building. The White Horse Inn has significance, therefore, insofar as it has evidential, historic and aesthetic value as a well-preserved building of its time.
6. Part of the proposals before me are to sub-divide The White Horse Inn into three separate residential properties. The front, oldest part of the building, would be divided into two. This would involve splitting the property along the central chimney stack, thereby partitioning off the two rooms either side of this and the original entrance at ground floor. This would disrupt the 'lobby-entrance plan' making the building less legible thereby eroding its significance in this respect.
7. In addition to this, at first floor, one of the rooms to one side of the chimney stack is to be further subdivided with a stud partition. This would again upset the original layout of the most historic part of the building. Even if demountable partition walls were installed, day-to-day, and for the foreseeable future, the historic layout of the building would be concealed.
8. Furthermore, the change at first floor would result in the insertion of a window in the side elevation of the building to serve the newly created room. This window would be inserted into weatherboarding resulting in a loss of historic fabric and a significant alteration to the historic visual appearance of the building. It is also unclear whether the window, which would be not insignificant in size, would be impeded by the timber frame of the property. In the absence of such information I cannot be satisfied that further harm to historic fabric would not occur as a result of this insertion.
9. It would be unacceptable to leave such a consideration to the discharge of conditions stage given the implications of these works to the structure of the

building. The insertion of new doors at ground and first floor into the most historic parts of the building raises similar concerns to those above.

10. The subdivision of the more historic part of the building would also require the insertion of an additional staircase. This would be inserted in a part of the building which appears to date from the late 17<sup>th</sup> Century – early 18<sup>th</sup> Century, or in any event, appears to be of significant age given the uneven appearance of the ceiling here. Therefore, again, the insertion of a staircase here would result in a significant loss of historic fabric. For all of the above reasons I therefore find harm to the special architectural and historic interest of The White Horse Inn.

#### *The setting of The White Horse Inn*

11. The setting of The White Horse Inn includes the land to the side and rear which, until relatively recently, was used for parking and as a garden for the public house. There is little substantive evidence before me of any more specific historic use of this area other than general conjecture that it would have always been used in connection with the property. Notwithstanding this, the area in which the residential development would be located has a strong visual relationship with the public house given their close proximity. There is also a historic connection insofar as the land appears to have always been associated with the building.
12. In principle, given the modest contribution the rear of the site makes to the significance of the listed building, a sensitive residential development here could work. However, the proposals before me would not achieve this. Firstly, in spite of its low eaves design, the overall height of the development would be higher than the public house. Whilst the dwellings are to be set well back from the public house and would be of a similar height to residential development immediately to the east, this adjacent development is on visually separate land to the appeal site and behind a clear boundary. Nevertheless, it is still visible from the front of the public house. Therefore, development of a similar scale, closer to, and with far less to separate it from the public house, would be more impactful, such that it would amount to harm to the setting of the listed building by virtue of overdominance. The points made thus far are sufficient in their own right to warrant the dismissal of both appeals.
13. In addition to the above I also have concerns over how the development surrounds the listed building with parking, an access road, and the new dwellings, leaving very little space around the former public house to allow it to sit comfortably in its setting. Every scrap of land is to be carved up into various new and separate uses such as small private gardens, parking spaces, bin stores etc. which altogether would give it an overdeveloped appearance.
14. Taking the above points together the proposed works would be harmful to the special architectural and historic interest of The White Horse Inn and its setting. In addition to this the proposal would also conflict with Policies VILL2, DES4, HA7 of the East Herts District Plan (2018) (DP) which require new development to respect local character and to protect listed buildings.
15. The harm I have found would be 'less than substantial' given the overall impact of the proposals on the listed building. My assessment of harm is greater than negligible or minor as put to me by the appellant and, for the reasons given, tending towards moderate harm. Nevertheless, any such harm attracts

considerable importance and weight. As per para 196 of the National Planning Policy Framework (the Framework) this harm should be weighed against the public benefits of the proposal. I return to this balance later in my decision.

### *Local community*

16. Policy CFLR8 of the DP seeks to protect community facilities, which, as set out in the supporting text, includes public houses. The text explains that within villages and the rural area public houses play an important role in terms of providing a social venue, local employment opportunities and contributing towards vitality. Consequently, Policy CFLR8 only permits the loss of such buildings in certain circumstances, the first being that an assessment has been undertaken which clearly shows that the facility is no longer needed in its current form.
17. The appellant has provided evidence that the public house is no longer needed by way of a Public House Viability Test. This is based on an objective test set by the Campaign for Real Ale and is designed to address what the business could achieve if it were run efficiently by a reasonable operator. The report sets out various alternative investment scenarios and types of operation, but every scenario leads to a loss-making position. This is due in part to the limited population of High Cross (taking into account recent development), strong local competition, and high refurbishment costs due to the age, condition and listing of the building.
18. I have also considered the effect of increasing the size of the carpark to attract a larger dining clientele but conclude that this would not make such a significant gain to mitigate the loss of all outside space. Similarly, if the profits from the 4 no houses proposed were secured to renovate the pub, the parking required for a profitable public house would be practically all lost. In any event, this scenario is not put to me by the appellant, and there is nothing before me to secure this. To bring these points together, I find the appellant's evidence compelling and there is nothing substantive on the Council's side to rebut it.
19. The White Horse Inn, now vacant, was the last public house in High Cross. However, there are two public houses in Wadesmill; the neighbouring village, which are accessible on foot within a (circa) 20 minute walk along a lit pavement. I agree that it would be desirable to have a public house within High Cross, but there is provision of this type of community facility within a comfortable walking distance for the average person.
20. Taking these points together I find that the evidence before me clearly demonstrates that the White Horse Inn is no longer needed in its current form. I therefore find no conflict with Policy CFLR8 of the DP.
21. The Council would like to see evidence of marketing the public house for approximately 12 months but Policy CFLR8 does not specify what type of assessment is required and I consider the assessment before me has adequately demonstrated compliance with this policy for the reasons set out above.
22. I note that the Parish Council are aware of two potential interested parties in purchasing the public house; although one has now found alternative premises. However, this is not sufficient to override my findings above, and there is nothing to suggest these persons would not come to similar findings as I upon

more in-depth investigation. I have also had regard to the draft Thundridge Neighbourhood Plan and appreciate the value local residents place on The White Horse Inn, but this does not outweigh the compelling evidence before me regarding its viability.

*Public benefits*

23. I return now to the public benefits of the proposals in line with para 196 of the Framework. The White Horse Inn is currently vacant and as a result is deteriorating and vulnerable. As set out above it is no longer viable and in need of a new use to secure its future. The proposals therefore provide a clear benefit in this regard. However, it has not been demonstrated that this is the only way the site could be re-developed. I therefore afford this benefit moderate weight.
24. Alongside this there is the benefit of the addition of a small number of houses to local housing supply, and the economic and social benefits attached to this of additional employment during the construction period and then on-going spending and increased vitality in the local area from new residents. The proposal also involves previously developed land for which there is support in the Framework. I attach moderate weight to these benefits also.
25. Taking these benefits together I nevertheless find that the weight to be attached to them is not sufficient to justify the harm that would be caused to the special architectural and historic interest of The White Horse Inn and its setting; harm that must be given considerable importance and weight in the balancing exercise.

**Conclusion**

26. The appeals are dismissed.

*Hayley Butcher*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT**

Zack Simons	Landmark Chambers
Justin Wickersham	Optimis Consulting
Leila Cramphorn	Optimis Consulting
Michael Lawton	Trinity Solutions
Jonathan Edis	Heritage Collective
Matthew Briffa	Briffa Philips Architects
Tom Nichols	Everard Cole
Claire Browne	Heritage Collective

### **FOR THE LOCAL PLANNING AUTHORITY**

Eilis Edmonds	East Hertfordshire District Council
Mike Brown	East Hertfordshire District Council

### **INTERESTED PARTIES**

David Malyan	Neighbour
Britta Hawes	Parish Council





## Appeal Decision

Site Visit made on 17 November 2020

**by Paul Thompson Dip TRP MAUD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> November 2020**

**Appeal Ref: APP/J1915/W/20/3248353**

**Sayes Park Farm, High Wych, Sawbridgeworth, Herts CM21 0JE**

- 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 A Greenall against the decision of East Hertfordshire District Council.
- The application Ref 3/19/1423/FUL, dated 4 July 2019, was refused by notice dated 12 September 2019.
- The development proposed is to convert redundant barns to 2 dwellings.

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The main parties agree that the proposed development would not amount to inappropriate development in the Green Belt, nor would it harm the openness of the Green Belt, as required by Policy GBR1 of the Council's Local Plan<sup>1</sup> and the Framework<sup>2</sup>. I have therefore determined the appeal on this basis and dealt solely with the matters that are in contention, as set out in the main issues below. I have also not found against Policy DES4 of the Council's Local Plan, which refers to design, as the Council did not find harm in this respect.

### Main Issues

3. The main issues are whether the site represents an appropriate location for housing, having regard to the development plan and access to shops, services and facilities.

### Reasons

#### *Location of the development*

4. The access to the land comprising the appeal site is to the southwest of the village of High Wych, which is designated as a Group 2 Village<sup>3</sup>. The barns situated within the site are part of a more extensive group of buildings at Sayes Park Farm in agricultural, residential and commercial use, beyond which is open countryside.
5. The proposal for housing in this location would not meet any of the criteria specified in the hierarchy contained in the Council's Development Strategy 2011-2033. In particular, it would not be a brownfield site or represent limited

<sup>1</sup> East Herts District Plan (October 2018).

<sup>2</sup> National Planning Policy Framework.

<sup>3</sup> Policy VILL2 of the Council's Local Plan.

development in a village. I therefore conclude that the appeal site would not represent an appropriate location for housing, having regard to the development plan. Hence, the proposed development would be in conflict with Policy DPS2 of the Council's Local Plan.

*Access to shops, services and facilities*

6. Although the appeal site is situated within an area of countryside, in terms of whether the proposed dwellings would be 'isolated' in the language of the Framework and the Court of Appeal judgement<sup>4</sup>, it is important to have regard to the site's relationship to existing built development as well as accessibility to services and facilities. Paragraph 78 of the Framework seeks to restrict housing in rural areas to locations where housing will enhance or maintain the vitality of rural communities.
7. Taking the physical dimension of isolation first, the proposed dwellings would be close to dwellings and other buildings at the farm. While the proposal would not be isolated from other dwellings it would do little more than add to existing development encircled by open countryside, some distance away from the village of High Wych. There are a small range of local services and facilities in the village, including a primary school, but the reality is that future residents would be obliged to travel further to Sawbridgeworth and Harlow, to meet their day-to-day needs, as a greater range of facilities and services are available.
8. In terms of accessibility, Policy TRA1 of the Council's Local Plan and paragraphs 102 and 103 of the Framework refer to transport issues. The latter suggests that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Given their location, the occupants of the proposed dwellings would be obliged to walk or cycle some distance up the access or along public rights of way across fields to reach the highway. As these lack lighting and dedicated pedestrian footways, the opportunities to walk or cycle to the services and facilities available nearby would not be convenient or realistic ones, particularly after dark or in bad weather.
9. Future residents would therefore be highly likely to be required to travel regularly by private motorised transport to access education, retail, employment and healthcare. I appreciate that the proposal would not, of itself, generate a large number of traffic movements and a greater dependency on car use is inevitable in more rural locations. The residents of existing properties in the immediate vicinity, including at the farm, may also choose to make such journeys. Nevertheless, the cumulative effect of allowing developments in locations such as the proposal would be likely to increase the amount of unsustainable journeys made. I have also not been provided with any information regarding the proximity and frequency of bus services to be able to determine whether they would sufficiently discourage further use of private motorised transport.
10. The appellant has referred to the approach to the accessibility of agricultural buildings that are able to be converted to residential use by virtue of permitted development rights, including references to supportive text in the Planning Practice Guidance. However, there is nothing before me to suggest whether the proposal would meet the requirements of the relevant approval process and, in any event, the appeal relates to an application for planning permission and

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<sup>4</sup> *Braintree DC v SSCLG* [2018].

such matters are approached in a different manner, as outlined by the main parties in their cases.

11. For the reasons outlined above, I conclude that the site would not represent a suitable location for housing, having regard to access to shops, services and facilities. Hence, the proposed development would conflict with the aims of Policy TRA1 of the Council's Local Plan and paragraphs 78, 102 and 103 of the Framework.

### **Planning Balance and Conclusion**

12. Although the Council is able to demonstrate a five-year supply of deliverable housing sites, I am mindful of the support offered in the Framework to the Government's objective to significantly boost the supply of homes. However, the contribution of the proposal to the overall housing mix and supply in the District would be minor in its extent and afforded limited weight.
13. While the proposal could provide accommodation for farmworkers to assist in the efficient operation of the farm, there is no substantive evidence before me which would establish a need for such accommodation or whether this need could not be met by other accommodation in the local area. I therefore only give limited weight to these arguments.
14. The proposal would make more efficient use of under-utilised barns, but the Framework is clear that such considerations should include taking into account the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use.
15. Some economic benefits would arise from, for example, employment during the construction period. Future occupiers would also contribute to the vitality of the rural economy through expenditure but they would be likely to do so by utilising private motorised transport. Given the scale of the development these benefits would be limited in scale and kind and consequently carry moderate weight.
16. The compliance of the appeal scheme with the Council's Local Plan policies, or parts thereof, in respect of the character and appearance of the barns and their surroundings, living conditions of occupiers of other residential properties, highways and flood risk, would constitute neutral impacts that would neither weigh for nor against the appeal scheme. In terms of harm, the site would not represent a suitable location for housing, having regard to the development plan and access to shops, services and facilities.
17. The proposal would not amount to sustainable development under the terms of the Framework. Overall, I find that the adverse impacts of the proposal are matters of significant and overriding weight against the grant of planning permission.
18. I have found harm in relation to the location of the development, and there are no other considerations which would outweigh these findings. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

*Paul Thompson*

INSPECTOR



## Appeal Decision

Site visit made on 22 October 2020

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

**Appeal Ref: APP/J1915/W/20/3246781**

**Bury Farm, Great Hornead, Buntingford, Hertfordshire SG9 0NS**

- 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 Mr & Mrs M Wyld against the decision of East Hertfordshire District Council.
- The application Ref 3/19/1503/VAR, dated 10 July 2019, was refused by notice dated 22 November 2019.
- The application sought planning permission for variation of condition 2 (approved plans) of LPA approval 3/14/1112/FP - Change of use of existing buildings to create 3no 3 bedroomed dwellings, 3no 4 bedroomed dwellings, 1no five bedroomed dwelling, provision of outbuildings, garages and office with associated landscaping and access. Demolition of grain store, ancillary building and structures. Revised design to unit 7, resulting in new layout and external appearance, without complying with a condition attached to planning permission Ref 3/17/0174/VAR, dated 22 March 2017.
- The condition in dispute is No 2 which states that: The development hereby approved shall be carried out in accordance with the plans listed at the end of this decision notice<sup>1</sup>.
- The reason given for the condition is: To ensure the development is carried out in accordance with the approved plans, drawings and specifications.

### Decision

1. The appeal is allowed, and planning permission is granted to retain and reuse the existing modern barn as opposed to its demolition as part of the previously approved residential re-development at Bury Farm, Great Hornead, Buntingford, Hertfordshire SG9 0NS in accordance with application Ref 3/19/1503/VAR without compliance with condition number 2 previously imposed on planning permission Ref 3/17/0174/VAR, dated 27 March 2017, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. For clarity, I have taken the address in the banner heading above from the appeal form as it is more succinct. I have also inserted 'Hertfordshire' to the address as it is listed on the Council's decision notice and application form.
3. For clarity, I have taken the description of development in my decision from the application form, as it more succinctly describes the proposal, omitting 'structure' and inserting 'modern barn' and adding 'as part of the previously approved residential re-development'.

<sup>1</sup> Plan no's: 211080DWG200; 211080DWG201; 211080DWG202; 211080DWG203; 211080DWG204; 211080DWG205 Rev A; 211080DWG206; 211080DWG207; 211080DWG208; 211080DWG210; 211080DWG211; 211080DWG212; 211080DWG213; 90016.02 Rev A; 90016.03 and 211080DWG20.

4. The appellant refers to the commencement of the residential development under a previous approved scheme, which has not been disputed by the Council. I have dealt with the appeal on this basis.

### **Main Issue**

5. There is no dispute between the parties that the proposal constitutes a Minor Material Amendment. Based on the evidence before me, I find no reason to conclude otherwise. Therefore, the main issue is:
  - i. the effect of the proposed development on the character and appearance of the appeal site, including the setting of the curtilage listed barn (the listed barn) and the setting of the surrounding Great Hornead Conservation Area (GHCA).

### **Reasons**

6. The modern agricultural barn (the modern barn), subject of this appeal, is located at the northern end of the planning unit and faces a yard area that separates it from the listed barn opposite. The listed barn falls within the curtilage of the Farmhouse<sup>2</sup> at Bury Farm, which is Grade II listed and is located within the GHCA. The modern barn is located just outside the boundary of the GHCA, which currently divides the yard area between the listed barn and the modern barn. However, the adopted GHCA plan<sup>3</sup> indicates that a large proportion of the modern barn is located within an Area of Archaeological Significance.
7. The planning history identifies that the wider site, originally benefits from planning approval in 2014<sup>4</sup>, which was then varied in 2017<sup>5</sup> through the approval of a planning application to vary the plans condition on the 2014 permission. The scheme before me, seeks to vary the plans condition on the 2017 permission, in order to retain the modern barn, and to allow its reuse in the redevelopment of the wider site, instead of its demolition. The modern barn would provide the car parking, storage and office space for the approved residential scheme, instead of the proposed 2no. blocks<sup>6</sup> approved in the previous submissions.
8. It is common ground between the main parties that the modern barn is not curtilage listed. Furthermore, Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) sets out that in the exercise of planning functions with respect to any buildings or land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. This statutory duty does not extend to the setting of a conservation area, but it is common ground between the parties that this is a material consideration in this appeal.
9. I consider from my findings during my visit that the significance of the GHCA to be the historic core, which includes various listed properties along the B1038 and off various side roads including, but not limited to, Horseshoe Hill located to the south of the site, which retains a high level of heritage interest. I find that the scheme is unlikely to be visible from the majority of public areas within

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<sup>2</sup> Farmhouse at Bury Farm (formerly listed as Bury Farm House) first listed on 22 February 1967

<sup>3</sup> Great Hornead Conservation Area Appraisal and Management Plan

<sup>4</sup> 3/14/1112/FP granted on 26 September 2014

<sup>5</sup> 3/17/0174/VAR granted on 23 March 2017

<sup>6</sup> Garage Block 1 and Garage Block 2

the GHCA due to the existing landform and buildings and, therefore, the effect of the proposal on the setting of the GHCA would still be limited. Although I acknowledge that glimpses of the modern barn are possible from Anderson's Lane, but this is limited due to the mature vegetation surrounding the building and the fact that it is set into the land on its side and rear elevations.

10. Turning to the effect on the setting of the listed barn, which dates from approximately c.1850's and is constructed out of brick and flint. The historical value of the listed barn derives from it being curtilage listed to the Farmhouse and still contributes positively, forming part of its original setting. There is no doubt that the modern barn as an existing structure, already has a visual impact upon the listed barn, and setting of the GHCA, which I consider to form a material consideration of significant weight.
11. I accept that the modern barn, whilst not listed, does nonetheless represent a period in the history of the wider site when it was involved in agriculture. Additionally, I note the indication in the appellant's submission to the replacement of some of the external materials on the modern barn. This gives an opportunity to enhance the appearance of the utilitarian building, which I consider could be sufficiently controlled through the imposition of a suitably worded condition.
12. I have a statutory duty under Section 66 (1) of the Act, which requires me to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. I consider the proposal accords with this duty. Paragraph 192 of the National Planning Policy Framework (the Framework) requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets, including conservation areas, and the desirability of development making a positive contribution to local character and distinctiveness.
13. Paragraph 193 of the Framework adds that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). I consider that the retention of the modern barn would have an overall neutral visual effect on the setting of the listed barn and the setting of the GHCA. Additionally, I do not consider that the development as proposed would undermine the high quality or cohesive design that is present in the extant residential scheme. Therefore, as the proposed development would not cause harm to the significance of the designated heritage assets for the purposes of the Framework, there is no requirement for me to consider public benefits to be weighed in a balancing exercise.
14. In conclusion, I find that the proposal would not harm the setting of the GHCA and it would preserve or enhance the setting of the listed barn. Accordingly, the it would comply with the design, heritage, character and appearance aims of Policies DES4, HA1, HA4, HA7 of the Council's District Plan 2018 and the requirements of the Framework.

### **Other Matter**

15. The appellant has referred to the sustainable credentials of reusing the existing modern barn instead of demolishing it. Whilst I have had regard to this matter, it has not been decisive in reaching my decision. I have considered this appeal



scheme on its own particular merits and concluded that it does not cause harm for the reasons set out above.

### **Conditions**

16. The Guidance makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. However, the Council's suggested conditions and comments from the appellant have provided sufficient clarity surrounding the status of the conditions imposed on the latest planning permission.
17. I have therefore imposed all the conditions suggested by the Council that I consider relevant. I have also reviewed the conditions imposed on the original permission, taking account of the revisions suggested by the Council. In light of advice contained in Planning Practice Guidance, for clarity, and to ensure compliance with the Guidance, I have amended some of the Council's wording on the original conditions that I have included on this decision.
18. The variation of this condition under section 73 of the Town and Country Planning Act 1990 would result in a new planning permission being created. However, a time limit of commencement of 3 years is not required in this instance. A condition is required to ensure that the development is carried out in accordance with approved plans for certainty.
19. Whilst a schedule of materials has been agreed on a previous submission, there are no specific details before me, surrounding the new materials proposed for the modern barn. Therefore, a pre-commencement condition securing the submission of details of external materials to the Council is reasonable and necessary to ensure the facing materials of the proposed development is acceptable to the character and appearance of the appeal site and the heritage assets. Additionally, conditions for hard/soft landscaping, external lighting and the removal of some permitted development rights for gates, fences, walls or other means of enclosure are all reasonable and necessary in the visual amenities of the development and its effect of the heritage assets.
20. Conditions are reasonable and necessary surrounding the hours of construction works, contamination and the installation of obscure glazing on unit 2, in respect of existing neighbouring occupiers and future occupiers respectively. A drainage condition is reasonable and necessary in the interest of the surrounding environment. However, the surface water drainage condition as suggested by the Council does not satisfy the 6 tests set out in the Framework and the PPG.

### **Conclusion**

21. For the reasons set out above I conclude that the appeal is allowed. I have granted a new permission with the disputed condition varied to allow the scheme to be undertaken in accordance with the design changes proposed in the Minor Material Amendment.

*W Johnson*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 211080DWG200; 211080DWG201; 211080DWG202; 211080DWG203; 211080DWG204; 211080DWG205 Rev A; 211080DWG206; 211080DWG207; 211080DWG208; 211080DWG210; 211080DWG212; 211080DWG213; 90016.02 Rev A; 90016.03 and 526.03A
- 2) The development shall take place in accordance with the written scheme of investigation submitted and agreed in writing with the Local Planning Authority under condition application reference: X/17/0281/CND. This condition will only be considered to be discharged when the planning authority has received and approved an archaeological report of all the required archaeological works, and if appropriate, a commitment to publication has been made.
- 3) Prior to the commencement of the works to the modern barn, details/samples of external materials to be used in the refurbishment of the modern barn shall first be submitted to and agreed in writing by the Local Planning Authority. The development shall then be constructed fully in accordance with the approved details/samples. The other elements of the development shall be constructed in accordance with the external materials of construction submitted to and agreed in writing by the Local Planning Authority, under condition application referenced: X/17/0281/CND.
- 4) All hard and soft landscape works shall be carried out in accordance with the approved details under condition application reference: X/17/0281/CND. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.
- 5) Any external lighting for the development shall be carried out in accordance with the details submitted to and agreed in writing by the Local Planning Authority, under condition application reference: X/17/0281/CND. The lighting scheme shall be retained as such thereafter.
- 6) In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.
- 7) The land remediation of the site shall be carried out in accordance with the strategy for land contamination remediation submitted and agreed in writing by the Local Planning Authority, under condition application referenced: X/17/0281/CND. Prior to first occupation of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.



8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the erection or construction of gates, fences, walls or other means of enclosure as described in Schedule 2, Part 2, Class A of the Order shall not be undertaken without the prior written permission of the Local Planning Authority.

9) Prior to the installation of any surface water drainage scheme (SWDS), details shall first be submitted to and agreed in writing by the Local Planning Authority. The SWDS shall then be constructed fully in accordance with the approved details.

10) The development shall be carried out in accordance with the measures as set out in the ELMAW bat report dated August 2014 entitled 'Final Protected Species Constraints Assessment'.

11) The proposed window openings to the landing window serving unit 2 on west elevation shall be fitted with obscure glazing and shall be permanently retained in that condition.

End of Schedule.



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## Appeal Decision

Site visit made on 22 October 2020

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 November 2020**

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**Appeal Ref: APP/J1915/W/20/3247686**

**Land opposite 44-58 Chapel Lane, Letty Green, Hertfordshire SG14 2PA**

- 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 Mick Sandford of Stay New Homes Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/2003/FUL, dated 3 October 2019, was refused by notice dated 4 December 2019.
  - The development proposed is described as: 'construction of a new house, garage and driveway, with new landscape planting'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. For clarity and precision, I have taken the address in the banner heading above from the Council's decision notice and application form, as this corresponds with other documents in the appellant's submission, including his Appeal Statement. I have also used 'Hertfordshire' as it is listed on the appeal form.

### Background and Main Issue

3. There is agreement between the main parties that the development does not amount to inappropriate development inside the Green Belt. Therefore, it is not necessary to consider the effect of the proposed development on Green Belt openness. Additionally, the demonstration of very special circumstances is not required. On the evidence before me, including the decision<sup>1</sup> by the previous Inspector (the previous decision), I have little reason to disagree with the main parties on this matter.
4. Therefore, the main issue of this appeal is the effect of the proposed development on the character and appearance of the appeal site and the surrounding area.

### Reasons

5. The appeal site is an irregular parcel of land that is located between Chapel Lane and Cole Green Way. Opposite the site are detached dwellings located in generous plots, set back by an appreciable distance from the road, with generous front and rear gardens. These neighbouring dwellings are positioned in an orderly arrangement fronting the road, which gives a distinct sense of spaciousness and ordered pattern of development on this section of Chapel Lane.

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<sup>1</sup> APP/J1915/W/18/3207743

6. The size and layout of the surrounding residential plots provides a notable rhythm of development, which contributes positively to the character and appearance of the surrounding area. I also noted during my visit that some properties along Chapel Lane towards the junction with Letty Green/Station Road and Woolmers Lane comprised of both single storey and 1.5 storey dwellings, with an overall variety in design.
7. I acknowledge that the appellant has sought to address the concerns of the Inspector on the previous decision, particularly, through moving the proposed development further away from Chapel Lane to a distance of approximately 7.8m, which is a reported increase of 3m from the previous scheme, and at 2-storeys, a setback of approximately 10.6m from Chapel Lane would be provided. The proposed development in the scheme before me now comprises single storey and 2-storey elements in its composition. I accept that this would result in articulation of its built form, due to the varying roof heights, in conjunction with its glazed links.
8. My attention has been drawn by various parties to the contemporary dwelling at No 27 Chapel Lane and the associated appeal decision<sup>2</sup>. I accept that this dwelling does not form a prevalent character in terms of site size, nonetheless, it is a material consideration in the determination of this appeal. Policy DES4 of the Council's District Plan 2018 (DP) requires proposals to make the best possible use of the available land by respecting or improving upon the character of the site and surrounding area, amongst other things. Furthermore, a criterion of DP Policy VILL3 is for development to be in character with the character of the village.
9. Whilst I recognise that in isolation the proposed development has some innovative features present in its design, I consider that due to the shape/size of the site, the appeal scheme would be distinctly at odds with the prevailing character of neighbouring dwellings particularly through its orientation. The proposed development would be read as a large dwelling with a notable footprint, which would further contribute to its discordant and strident appearance that would be readily visible from Chapel Lane and Cole Green Way. In this instance, I do not consider that the proposed landscaping scheme would provide sufficient mitigation against the identified harm, nor do I consider that a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable.
10. For all of these reasons, I therefore conclude that the proposed development would harm the character and appearance of the appeal site and surrounding area. As a consequence, it would conflict with the design, character and appearance aims of DP Policies VILL3, DES4 and the requirements of the National Planning Policy Framework (the Framework).

### **Other Matter**

11. I have had regard to the proposed energy saving features to be incorporated within the proposed development, but on the evidence before me this is not a reason to grant permission in the face of the harm identified. I have considered this appeal scheme on its own particular merits and concluded that it causes harm for the reasons set out above.

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<sup>2</sup> APP/J1915/W/17/3174337

### **Planning Balance and Conclusion**

12. Whilst I accept the absence of other harm arising from the proposed development and the modest social and economic benefits that would arise through the construction phase and subsequent occupation of the proposed development, these factors, do not outweigh my assessment of the main issue.
13. Given my findings above, the proposed development would conflict with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It would also be at odds with the requirements of the Framework.
14. Taking all matters into consideration, I conclude that the appeal should be dismissed.

*W Johnson*

INSPECTOR

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## Appeal Decision

Site visit made on 7 October 2020

**by Benjamin Clarke BA (Hons.) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Tuesday, 03 November 2020**

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**Appeal Ref: APP/J1915/W/20/3253160**

**Pole Hole Farm, Pye Corner, Gilston CM20 2RP**

- 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 Magri Builders Ltd against the decision of East Hertfordshire District Council.
  - The application Ref: 3/19/2169/OUT, dated 23 October 2019, was refused by notice dated 19 December 2019.
  - The development proposed is the demolition of and agricultural barn and erection of five dwelling houses.
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### Decision

1. The appeal is dismissed

### Procedural Matter

2. The application was submitted in outline, with all matters reserved apart from landscaping. I have had regard to all other details on the submitted plans on an indicative basis only.

### Main Issues

3. The main issues are:
  - whether the proposal would be inappropriate development in the Green Belt;
  - Whether the site is a suitable location for a residential development;
  - The effect of the development upon the character and appearance of the surrounding area, with particular reference to landscaping;
  - The effect of the development upon flood risk; and
  - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development

### Reasons

*Whether inappropriate development*

4. The site is located within the Green Belt. The National Planning Policy Framework (the Framework) regards the erection of new buildings within the

Green Belt as being inappropriate. There are some exceptions to this, however, the proposed development does not pertain to the carrying out of agricultural, forestry, outdoor sport or recreation activities.

5. Whilst the proposed development would be a replacement building, the scheme before me has a greater massing than the existing structure, which was constructed to support agricultural activities. The existing building therefore has a different effect on the character of the Green Belt than the proposed residential development before me. I also note that the Framework identifies that agricultural developments might be acceptable within the Green Belt.
6. I have had regard to the provisions of paragraph 145 of the Framework and specifically, point (g). This states that limited infilling or the partial or complete redevelopment of previously developed land is not inappropriate provided that it would not have a greater impact on the openness of the Green Belt than the existing development; not cause substantial harm to the openness of the Green Belt, or that development would re-use previously developed land and contribute to meeting an identified affordable housing need.
7. By reason of the siting of the proposed development, the predominance of countryside that surrounds the appeal site and the general pattern of development within the appeal site's environs, I do not believe that development would constitute a limited infill within a village.
8. In addition, by reason of its likely proportions, the number of units of accommodation proposed and the area's general topography, the proposed development would result in a more prominent level of built form within the surrounding area. This is particularly concerning as the building would be clearly visible from the adjacent road. These factors, when combined with the topography of the vicinity, means that the proposed development would be clearly visible. This would therefore result in an erosion of the open character that is a feature of the vicinity.
9. The proposed development in the location indicated on the submitted plans would also erode the spatial sense of openness that is a feature of the site due to their likely form, which would exist in conjunction with boundary treatments to signify the subdivision of the site into individual plots.
10. Furthermore, there is a likelihood that other domestic paraphernalia might be installed in the development post occupation. This would be in addition to the parking area and cycle store. For these reasons, the proposed development would have a greater effect on openness than the existing barn.
11. For these reasons, I do not consider that the proposed development would fall within the definition of not inappropriate development as outlined in paragraph 145 (g) of the Framework.
12. Due to the likely positioning of the proposed development, any increased views across the site are likely to be somewhat limited. In consequence, these views would not result in an enhancement to the level of openness associated with the site.
13. I therefore conclude that the proposed development would erode the sense of openness that is an intrinsic feature of the Green Belt. The proposal is therefore an inappropriate development in the Green Belt. The development, in this regard, conflicts with Policy GBR1 of the East Herts District Plan (2018)

(the District Plan). This policy, amongst other matters, seeks to ensure that planning applications within the Green Belt will be considered in line with the provisions of the Framework.

#### *Suitability of the site*

14. The appeal site is located outside of settlement boundaries, albeit there are some existing dwellings within the surrounding area. Other dwellings are in the process of being constructed through a conversion process.
15. Whilst the presence of a relatively limited amount of development in the surrounding area means that the proposed development would not be isolated, the proposed siting does raise some concerns. This is due to the relatively low provision of services within the surrounding area. In consequence, residents of the development would be required to travel to other settlements in order to access all the services and facilities that they are likely to require on a day to day basis.
16. The surrounding road network is relatively sinuous in nature, contains few grass verges, is unlit and lacks separate pavements for pedestrians. In consequence, this environment is not conducive to carrying out journeys on foot. Therefore, the lack of an attractive pedestrian environment is likely to encourage the carrying out of journeys by private cars.
17. Although the appeal site is relatively close to Harlow, the distances that would need to be travelled, combined with a diminished provision of public transport means that residents are more likely to use private cars. For similar reasons, I am not persuaded that the site's general proximity to employment areas in Edinburgh Way would be sufficient to prevent a significant number of journeys being made by private cars.
18. I also note that the site is close to a 'sustainable transport corridor potential extension', however, I do not have information regarding the timing for the delivery of this matter, the likely level of public transport provision, and the frequency of services. In consequence, this matter does not allow me to set aside my previous concerns as I do not have certainty that residents of the proposed development would have access
19. I therefore conclude that the site does not represent an appropriate location for a residential development. The development, in this regard conflicts with Policies DPS2 and TRA1 of the District Plan. These, amongst other matters, seek to ensure that there is a delivery of sustainable developments in accordance with a hierarchy of sites and that development proposals should ensure that safe and suitable access can be achieved for all users

#### *Character and appearance*

20. The proposed development be located to the front of the site. The appeal site is located on lower ground when compared to much of the surrounding area. The wider area primarily consists of open countryside.
21. By reason of the proximity of the proposed development to the road, the increase in built form would be readily apparent. In consequence, the building would erode the more rural character and appearance that defines the vicinity of the appeal site. This therefore highlights the need for appropriate landscaping.

22. Whilst I note that the appeal documents before me include a landscaping scheme, this does not assess the existing planting that is present within the confines of the appeal site and whether it is possible, or appropriate, to retain any of this post development.
23. This is of importance given that there is some mature landscaping adjacent to the highway edge and should it be removed, would result in a significant change to the character of this location. This would be exacerbated as any new landscaping would potentially take some time to become established, which would lessen its effectiveness in ensuring that the proposed development adequately assimilates into the rural surroundings that are a feature of the surrounding area.
24. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the surrounding area arising from the lack of appropriate landscaping. The development, in this regard, conflicts with Policies DES2 and DES3 of the District Plan. These, amongst other matters, seek to ensure that proposals must demonstrate how they conserve, enhance or strengthen the character and distinctive features of the district's landscape; and retain, protect and enhance existing landscape features.

#### *Flood risk*

25. The appeal site is relatively level in nature and is in proximity to a stream. In addition, parts of the appeal site are located within Flood Zones, 1, 2, 3a and 3b.
26. I have had regard to the submitted indicative layout plans. Whilst I acknowledge that the layout of the development has been reserved for future consideration, there is a likelihood that if it were to proceed in a manner consistent with the indicative layout, at least some part would be constructed in a higher risk flood zone.
27. This would cause some concern as this layout would also provide a relatively small ribbon of land between the proposed dwellings and the stream. This would provide a limited area for any flood water to accumulate, whilst also limiting the amount of space for maintenance of the stream or its banks.
28. Such measures could potentially increase the effects of flooding in the future. These concerns are emphasised as a sequential assessment has not been carried out. This means that it has not been demonstrated that there is no option of constructing the proposed development in an area associated with lower flood risk.
29. Whilst the layout of the development has been reserved for future consideration, I am uncertain that that a substantially different layout could overcome these concerns. This is important as any revised layout would need to be implemented in a manner that would also maintain, amongst other matters, the character and appearance of the surrounding area and the living conditions of the occupiers of neighbouring properties, in addition to securing appropriate living conditions for the future occupiers of the development.
30. I therefore conclude that the proposed development would have an adverse effect on flood risk. The development, in this regard, conflicts with Policy WAT1 of the District Plan. This, amongst other matters, seeks to ensure that new developments neither increase the likelihood or intensity of any form of



flooding, nor increase the risk to people, property, crops or livestock from such events, both on site and to neighbouring land or further downstream.

### **Other considerations**

31. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition to the adverse impacts on openness, the Green Belt's purpose of safeguarding the countryside from encroachment has been eroded by the development. Substantial weight should be given to this harm. Very special circumstances will not exist unless the harm to the Green Belt and the other identified harm are clearly outweighed by other considerations.
32. The proposal would result in an increase in the local housing supply, which might be available within the short term. However, the benefits of this are small given the scale of the proposed development. Given that this scale, any economic support of businesses and services within the area is also likely to be small. Accordingly, I give each of these matters limited weight.
33. As explained above, I give only limited weight to each of the considerations cited in support of the proposal and accordingly I do not find that these amount to the special circumstances necessary to justify the development.

### **Conclusion**

34. For the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR



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## Appeal Decision

Site visit made on 22 October 2020

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 November 2020**

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**Appeal Ref: APP/J1915/D/20/3247591**

**10 Brickendon Green, Brickendon, Hertford SG13 8PB**

- 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 N & J Rorke against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/2242/HH, dated 30 October 2019, was refused by notice dated 23 December 2019.
  - The development proposed is a proposed part single storey/part two storey rear extension and proposed side dormer window.
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### Decision

1. The appeal is allowed, and planning permission is granted for the erection of a proposed part single storey/part two storey rear extension and proposed side dormer window at 10 Brickendon Green, Brickendon, Hertford SG13 8PB in accordance with the terms of the application, Ref 3/19/2242/HH dated 30 October 2019, subject to the conditions set out below:
  - 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 approved plans: 1384-S001-1<sup>st</sup> and 13834-P001-A.
  - 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.
  - 4) The extension hereby permitted shall not be occupied until the proposed dormer window has been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

### Procedural Matter

2. For clarity and precision, I have inserted 'Hertford' in the address in the banner heading above as it is listed on the appeal form.

### Background and Main Issue

3. There is agreement between the main parties that the development does not amount to inappropriate development inside the Green Belt. Therefore, it is not necessary to consider the effect of the proposed development on Green Belt openness. Additionally, the demonstration of very special circumstances is not required. Furthermore, the Council has not raised any issues towards other

elements of the proposed development, including the additional dormer window on the side facing roof slope, the external alterations, including the insertion of another door on the side elevation or the full width single storey rear extension. On the evidence before me, I have little reason to disagree with the Council on these matters.

4. Therefore, the main issue of this appeal is the effect of the proposed development on the character and appearance of the appeal site, No's 10 to 15 Brickendon Green (the terrace) and Brickendon Conservation Area (BCA), particularly from the 2-storey element of the rear extension.

## **Reasons**

5. The host dwelling is an end terraced house, which has a 1.5 storey appearance due to its cat slide roof design, which in turn, forms a prominent feature to both the front and side elevation of the property and to the street scene that it forms part. The roof has 2no. existing dormers on the front and side facing roof slopes.
6. The site is located within the BCA, which is a linear village extending from Well Green in the east, to Brickendon Green and Brickendon Grange, now associated with a golf course, in the west. It's significance stems from the variety of historic buildings located within it and the street scenes that they form. The relationships of the buildings with each other, the quality of the spaces between them and the vistas and views that unite or disrupt them, which are generally open in character where extensive open spaces with trees and hedgerows forming important elements.
7. The 2-storey rear extension is set in from the existing side elevation, with its fenestration details aligning with the windows on the rear elevation. The proposed roof over the 2-storey extension is a hipped roof that returns into the main roof, following the roof slope on the side elevation. Whilst concern has been raised with regards to the visual effect on the neighbouring properties forming the terrace, I do not share these concerns. The proposed development would not be clearly visible from Brickendon Green, but I accept that glimpses of the site would be possible from Fanshaws Lane.
8. Nonetheless, the proposed development would be a well-designed extension on the rear elevation of the host dwelling. Overall, whilst I note that the rear elevation of the terrace has remained generally unaltered, unlike the front elevations facing Brickendon Green, the design of the proposed 2-storey rear extension would complement the host dwelling and the terrace through replicating existing features within its proposed design.
9. At the statutory level, as the site is in the BCA I am required to pay special attention to the desirability of preserving or enhancing its character or appearance in accordance with Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990. I consider the proposed development accords with this duty. Paragraph 192 of the National Planning Policy Framework (the Framework) requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets, including conservation areas, and the desirability of development making a positive contribution to local character and distinctiveness.

10. Paragraph 193 of the Framework adds that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). I consider that the proposed development would have an overall neutral visual effect on the BCA. Therefore, as the proposed development would not cause harm to the significance of the designated heritage asset for the purposes of the Framework, there is no requirement for me to consider public benefits to be weighed in a balancing exercise.
11. For all of these reasons, I therefore conclude that the proposed development would not harm the character and appearance of the appeal site, the terrace or the BCA. This would accord with the heritage, design, character and appearance aims of Policies DES4, HOU11 and HA4 of the Council's District Plan 2018.

### **Other Matter**

12. I have also had regard to reference by the Council to the refusal of a similar planning application to the appeal scheme at No 12 Brickendon Green, but on the limited details before me this is not a reason to withhold planning permission in the face of the lack of harm identified. I have considered this appeal scheme on its own particular merits and concluded that it does not cause harm for the reasons set out above.

### **Conditions**

13. For certainty, it is necessary that there is a condition requiring that the development is carried out in accordance with the approved plans and that conditions are necessary to ensure the facing materials match those present in the original house.
14. Whilst it is not suggested on the Questionnaire, there is reference in the Officer Report to the imposition of obscure glazing being required within the proposed side dormer window. I consider, due to the modest distance between the host dwelling and No 10a Brickendon Green, it is reasonable and necessary to impose an obscure glazing condition on this window to ensure the living conditions of neighbouring occupiers are satisfactorily maintained.

### **Conclusion**

15. Taking all matters into consideration, I conclude that the appeal should succeed.

*W Johnson*

INSPECTOR

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## Appeal Decision

Site visit made on 22 October 2020

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 November 2020**

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**Appeal Ref: APP/J1915/W/20/3247579**

**Corner Cottage, 10A Brickendon Green, Brickendon, Hertford SG13 8PB**

- 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 N & J Rorke against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/2285/FUL, dated 6 November 2019, was refused by notice dated 13 January 2020.
  - The development proposed is described as: 'replacement of two existing outbuildings with a detached one-bedroom bungalow'.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. For clarity and precision, I have inserted 'Hertford' in the address in the banner heading above as it is listed on the appeal form.
3. Whilst not cited on the Council's decision notice, the appellant has referred to Policy HA4 of the Council's District Plan 2018 (DP) and to the Brickendon Conservation Area Appraisal and Management Plan 2014 (BCAAMP) in their submission, which were provided by the Council in its Questionnaire. Therefore, I will not prejudice either party in taking these documents into consideration in the determination of this appeal.

### Background and Main Issues

4. There is agreement between the appeal parties that the development does not amount to inappropriate development inside the Green Belt. Therefore, it is not necessary to consider the effect of the proposed development on Green Belt openness. Additionally, the demonstration of very special circumstances is not required. On the evidence before me, I have little reason to disagree with the main parties on this matter.
5. Therefore, the main issues of this appeal are the effect of the proposed development on:
  - i. the character and appearance of the appeal site and Brickendon Conservation Area (BCA); and,
  - ii. the living conditions of future occupiers, with particular regard to the provision of amenity space.

## Reasons

### *Character and appearance*

6. The appeal site currently provides the access<sup>1</sup> and parking area for No 10a, with storage available in single storey timber garage and shed. The proposal is for a single storey one-bedroom bungalow that would have a 'L' shape footprint, sited where the timber structures are located. An additional access would be created to serve the occupiers of No 10a.
7. The proposed dwelling would have a single aspect, due to the constraints of the site. However, this feature would not be clearly visible within areas of the public realm, due to existing and proposed boundary treatments that could be secured by a suitably worded condition. Additionally, I observed other bungalow's in the vicinity of the site during my visit and consider that the design of the proposed dwelling would not, in isolation, harm the character and appearance of the BCA.
8. However, the plot size of the appeal scheme in this location appears significantly smaller than the surrounding properties. These properties are all situated in generous plots, with generous rear gardens. The surrounding residential plots are positioned in an orderly arrangement fronting the road, which gives a distinct sense of spaciousness and ordered pattern of development to the immediate surroundings. The sizes of the surrounding residential plots contribute to a regular rhythm of development, making a positive contribution to the surrounding BCA. In the context of the surrounding BCA, the appeal scheme would be distinctly at odds with the character of neighbouring dwellings, as it would appear discordant in its location and more cramped in its appearance. This relationship between buildings with each other is an important factor in the significance of the BCA.
9. Paragraph 192 of the National Planning Policy Framework (the Framework) requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets, including conservation areas, and the desirability of development making a positive contribution to local character and distinctiveness. At the statutory level, as the site is in the BCA I am required to pay special attention to the desirability of preserving or enhancing its character or appearance in accordance with Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). The statutory duty in Section 72 of the Act is a matter of considerable importance and weight. I consider the proposed development fails to accord with this duty.
10. The proposal would have a negative effect on the significance of a designated heritage asset and would result in "less than substantial" harm in the words of paragraph 196 of the Framework. To allow the proposal the resultant harm would need to be clearly outweighed. The proposal provides an additional dwelling to the Council's housing supply and there would be modest economic and social benefits from its construction and subsequent occupation. However, I find that the public benefits of the proposed development would not outweigh the harm to the significance of the BCA.

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<sup>1</sup> Off Fanshaw Lane

11. For all of these reasons, I therefore conclude that the proposed development would harm the character and appearance of the appeal site and the BCA. This fails to accord with the heritage, design, character and appearance aims of DP Policies DES4, VILL2 and HA4. Additionally, the proposed development would not conserve the heritage asset in a manner appropriate to its significance in line with the Framework.
12. The Council have cited DP Policy GBR1 on its decision notice, which confirms that planning applications will be considered in line with the provisions of the Framework. However, the Council have confirmed that it considers the proposed development would not conflict with the aims of the Framework to protect Green Belt land. Therefore, I find DP Policy GBR1 is not directly applicable to the case before me.

### *Living conditions*

13. There is no dispute between the main parties surrounding the sufficient level of internal accommodation that would comply with the guidance set out in the Government's technical housing standards<sup>2</sup>. However, neither party have provided any figures or calculations regarding the amount of outdoor private amenity space that would be provided for the future occupiers of the proposed development.
14. The evidence I have on this matter is inconclusive, as it appeared when on site that a modest amount of space would be provided between the car parking area for the new dwelling and the parking area for No 10A. I consider that this modest area would not be clearly visible from areas within the public realm, due to the notable boundary treatment on Fanshaws Lane, comprising a timber fence and a tall mature hedgerow. Additionally, due to the location of the existing and proposed access points, the outdoor amenity, albeit at the front of the proposed dwelling would benefit from a sufficient level of privacy.
15. Furthermore, I consider that the new shared boundary that would be created between the site and No 10a could be controlled through the imposition of a suitably worded condition to ensure that the boundary treatment would prevent any potential loss of privacy to future occupiers of the proposed development from the occupiers of No 10a. On balance, and in the absence of any substantive evidence to the contrary, I consider that the proposed area of private amenity space would be commensurate to the level of accommodation proposed in the 1no. bedroom, 2-person dwelling.
16. For all of these reasons, I therefore conclude that the proposed development would not harm the living conditions of future occupiers. This would accord with the amenity aims of DP Policy DES4 and the requirements of the Framework.

### **Other Matter**

17. I have also had regard to concerns raised by the appellant about the way that the Council handled the scheme, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

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<sup>2</sup> Technical housing standards – nationally described space standard 2015

### **Planning Balance and Conclusion**

18. Whilst I accept the absence of other harm arising from the proposed development, including to the living conditions of future occupiers, and the modest social and economic benefits that would arise, these factors, do not outweigh my assessment of the main issues.
19. Given my findings above, the proposed development would conflict with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It would also be at odds with the requirements of the Framework.
20. Taking all matters into consideration, I conclude that the appeal should be dismissed.

*W Johnson*

INSPECTOR





## Appeal Decision

Site Visit made on 17 November 2020

**by Paul Thompson Dip TRP MAUD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> November 2020**

**Appeal Ref: APP/J1915/D/20/3251573**

**28 Rowney Gardens, Sawbridgeworth, Herts CM21 0AT**

- 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. K. Hawkins against the decision of East Hertfordshire District Council.
- The application Ref 3/19/2535/HH, dated 10 December 2019, was refused by notice dated 4 February 2020.
- The development proposed is demolition of side garage, removal of chimney stacks. Erection of single storey front, side rear two storied garage, kitchen, living room extensions.

### Decision

1. The appeal is dismissed insofar as it relates to the Demolition of side garage and removal of chimney stacks. Erection of single storey front and rear and two storey side and rear extensions. The appeal is allowed insofar as it relates to Erection of single storey side extension and new vehicle access onto Rowney Gardens and proposed access gates and front boundary wall and planning permission is granted for Erection of single storey side extension and new vehicle access onto Rowney Gardens and proposed access gates and front boundary wall at 28 Rowney Gardens, Sawbridgeworth, Herts CM21 0AT in accordance with the terms of the application, Ref 3/19/2535/HH, dated 10 December 2019, and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0797/2g and 0797/3.
  - 3) The exterior of the development hereby approved shall be constructed in the materials specified on the submitted application form/plans.

### Preliminary Matters

2. Despite the description of development set out above, I consider the description found on the Decision Notice and the Appeal Form better reflects the scheme that is before me and that which the Council considered. The development proposed is therefore for 'Demolition of side garage and removal of chimney stacks. Erection of single storey front, side, rear and two storey side and rear extensions. New vehicle access onto Rowney Gardens and proposed access gates and front boundary wall'. I have dealt with the appeal on this basis.

## **Main Issue**

3. The main issue is the effect of the proposed single storey front and rear and two storey side and rear extensions on the character and appearance of the existing house and the surrounding area.

## **Reasons**

4. The appeal concerns an interwar detached house situated in a residential street of similarly designed houses, the majority of which have been extended to the southern side to incorporate two-storey extensions and altered roof forms. Some also incorporate single storey additions to the rear. The appeal property was extended to the south in the 1980s to incorporate a garage.
5. The proposed extensions to the rear would be split between floors, with the second-storey extension set in at the rear and the single-storey extension continuing beyond this. The ridges of the two hipped roof components of the two-storey extension would be to the same height as the existing north gable and there would be a central box gutter between. The design of the roof would not, of itself, be harmful to the appearance of the property, principally as the existing roof would be visible behind. While there would not be views of these proposed extensions from the street, they would occupy the full width of the house and extend notably beyond the rear, their appearance would therefore be unduly dominant and imposing in relation to the existing house, particularly when viewed from the gardens of neighbouring properties.
6. The proposed two-storey side extension would terminate at the existing rear façade and incorporate a double hipped roof like the extension to the rear. The extension would be set back at first floor at the front and the existing roof slope of the house would be evident above and between the hipped portions of the new roof. At ground floor, the extension would continue further forward at the front, beyond the front elevation.
7. Given the design of the hipped roofs and its position in relation to the house, the proposed two-storey side extension would appear as a subservient addition to the house, in its own right. It would also have a similar appearance to an extension of a house further south. The forward projection, to incorporate the garage, would also be a modest addition that would not jar with the front façade of the house or be harmful in its surroundings. Nevertheless, given that the side extension would be linked to the extensions at the rear, it could not be severed to form an independent element of the appeal scheme. It must therefore be considered, as a whole, in conjunction with those parts of the proposal with which I have found harm.
8. There are numerous extensions to other properties in the street but, other than the alterations to No 1, they are largely not comparable with the appeal scheme, which also includes a two-storey rear extension. Even still, I note that the whole of the roof of No 1 has been altered to a crown roof, the lack of articulation and overall mass of which should not be used as a reason to allow those elements of the appeal scheme that would be harmful to No 28 and its surroundings. In any event, I am also conscious that I must consider the appeal scheme on its own individual merits.
9. In light of the above, despite the lack of local objections to the proposal and my findings, in isolation, in relation to the proposed two-storey side and single

storey front extensions, the appearance, scale and form of the existing house would be unrecognisable and overwhelmed by the proposed two-storey side and rear extensions and the single storey front and rear extensions. I therefore conclude that those elements of the proposed development would be harmful to the character and appearance of the existing house and the surrounding area. Hence, they would not accord with the design aims of Policies DES4 and HOU11 of the East Herts District Plan (Adopted October 2018), particularly in relation to the subservience of proposed extensions. The proposal would also be contrary to the paragraph 130 of the National Planning Policy Framework, as it would fail to take the opportunities available for improving the character and quality of the area.

### **Other Matters**

10. The proposal also includes a single storey extension to the northeast corner of the house to provide a study, which includes a small pitched section to the front and a flat roof behind. There would also be an additional vehicular access to form an in-out driveway, that would be enclosed by a predominantly low wall, but with piers and wrought iron double gates to each access. These parts of the proposal would be modest, both in their size and design, and would not be harmful to the character and appearance of the existing house or the surrounding area. I therefore find no harm in respect of these elements of the proposal and note that the Council did not raise concerns in this regard either. As those parts of the development are both physically and functionally severable from the other proposed extensions to the side and rear of the house, I consider a split decision would be a logical outcome.
11. I appreciate that the property is in the process of being modernised, and the proposal would improve natural light, insulation and the living environment of the appeal property, which would better meet the needs of the appellant and his family, particularly for future care and support. Similarly, the Council did not raise concerns with regard to the living conditions of neighbouring occupiers or highway safety, and there is nothing before me which would lead me to a different conclusion. However, the personal circumstances and other benefits, and absence of other harms would not be sufficient to outweigh the harm I have identified with regard to the other parts of the appeal scheme referred to in the main issue.
12. The appellant submitted the proposal following pre-application advice, which was preceded by refusal of planning permission for a similar proposal. The Framework stresses the benefits of early engagement and of good quality pre-application discussion. The appellant has referred to the conduct of the Council, including with regard to their approach to and the timeframe of those discussions, but also in relation to the approach to and consistency of its decision-making. These are primarily not matters for me to consider as part of this appeal, in any event, I have considered the individual merits of the appeal scheme afresh in relation to the relevant policies and evidence before me.

### **Conditions**

13. In addition to the standard time limit, I have specified in the decision that, in terms of the side extension to form a study, the new vehicular access and the front boundary wall and gates, the development shall proceed in accordance with the approved plans for the avoidance of doubt and in the interests of certainty. A condition relating to materials being in accordance with the details

shown on the application form or plans is also necessary to ensure that the appearance of those aspects of the proposal would be satisfactory.

14. I have not included the other conditions suggested by the Council as they are not relevant to those aspects of the proposal, particularly the protection of hedges and trees, as the front hedge already appears to have been removed and there is already a wall at the front of the site close to the hedge separating Nos 27 and 28.

### **Conclusion**

15. For the reasons given above I conclude that the appeal should be allowed insofar as it relates to the single storey side extension, for a study, the proposed new vehicle access onto Rowney Gardens and proposed access gates and front boundary wall, but dismissed insofar as it relates to the single storey front and rear and two-storey side and rear extensions.

*Paul Thompson*

INSPECTOR



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## Appeal Decision

Site visit made on 20 October 2020

**by C Beeby BA (Hons) MIPROW**

an Inspector appointed by the Secretary of State

Decision date: 24<sup>th</sup> November 2020

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**Appeal Ref: APP/J1915/D/20/3251564**

**11 Burnham Green Road, Datchworth, Hertfordshire SG3 6SE**

- 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 M Wager against the decision of East Herts Council.
  - The application Ref 3/19/2613/HH, dated 16 December 2019, was refused by notice dated 5 February 2020.
  - The development proposed is described as “raise the roof to the existing front projection and reconfigure the first floor layout”.
- 

### Decision

1. The appeal is allowed and planning permission is granted for “raise the roof to the existing front projection and reconfigure the first floor layout” at 11 Burnham Green Road, Datchworth, Hertfordshire SG3 6SE, in accordance with the terms of the application, Ref 3/19/2613/HH dated 16 December 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: RL/4884/11-16 dated October 2019.
  - 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. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. 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 Issue

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

### Reasons

4. The appeal property is a two-storey detached dwelling lying within a residential area. Property design in the vicinity is relatively diverse, however a number of dwellings have two-storey front gables which project from the property’s front

elevation, combined with eaves to the main roof at ground floor level. Several of the front gables match the height of the main roof. Thus, the combination of eaves to the main roof at ground floor level with a gable element with substantially higher eaves is characteristic of the area's pattern of development.

5. The property has an existing single storey front gable, which the appeal proposes to extend to two-storey height. The scheme would consequently be characteristic of the surrounding pattern of development.
6. Furthermore, the eaves to the extension would approximately match the height of those above a dormer window which lies within the other side of the roof, producing a symmetry of design which would acceptably mitigate any visual harm which would arise from the contrast in eaves height elsewhere. The extension's lower roof ridge line would give rise to a subservience to the existing property, which would contribute positively to the building's appearance.
7. Accordingly, the proposal would assimilate satisfactorily with the surrounding pattern of development, and would have an acceptable effect on the character and appearance of the area. Thus, the proposal accords with Policies DES4, VILL2 and HOU11 of the East Herts District Plan 2018, which set out that development should reflect local distinctiveness and should be in keeping with the character of the surrounding area.

### **Other Matters**

8. Concern is raised by an interested party regarding the proposal's effect on daylight and outlook available to the occupiers of No 13 Burnham Green Road. However, the dwelling is reasonably well set back from its boundary with the appeal property, so that the distance would prevent any unacceptable effect on these matters.
9. Concern is additionally raised regarding the proposal's effect on the privacy of the occupiers of No 10 Burnham Green Road. Nevertheless, as the dwelling concerned lies across intervening highway, verges and front garden areas with boundary treatments, I am satisfied that the separation between the two dwellings would allow for an acceptable effect on the issue.

### **Conditions**

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

### **Conclusion**

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

*C Beeby*

INSPECTOR

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## Appeal Decision

Site visit made on 18 November 2020

**by David Reed BSc DipTP DMS MRTPI**

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

**Decision date: 30<sup>th</sup> November 2020**

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**Appeal Ref: APP/J1915/Q/20/3253992**

**The Cock Inn, Ginns Road, Stocking Pelham, Buntingford, Hertfordshire SG9 0HZ**

- The appeal is made under Section 106B of the Town and Country Planning Act 1990 against a failure to determine that a planning obligation should be discharged.
  - The appeal is made by Mr Shaun Savage, Winchmore Developments Ltd against East Hertfordshire District Council.
  - The development to which the planning obligation relates is the construction of two residential dwellings and a public house.
  - The planning obligation, dated 14 February 2012, was made between East Hertfordshire District Council and David Lyle Smith.
  - The application Ref 3/20/0201/SV is dated 15 January 2020.
  - The application sought to have the planning obligation discharged.
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### Decision

1. The appeal is allowed and the planning obligation is discharged.

### Main Issue

2. The main issue is whether the planning obligation performs a useful function.

### Reasons

3. The Cock Inn, a public house in the village of Stocking Pelham, was destroyed by fire in 2008. In 2012 outline planning permission (Ref. 3/10/1583/OP) for the construction of two residential dwellings and a public house was granted by the Council following a Section 106 agreement between the Council and then site owner David Smith.
4. Under this agreement, with the objective of securing construction of the public house, the third schedule specifies:

"The owner shall not suffer nor permit the occupation of more than one dwelling until such time as the public house has been constructed and put in to a state where it is capable of being granted a premises license under part 3 of the Licensing Act 2003 ("Operational State") to the reasonable satisfaction of the [Council's] director; and

The owner shall procure that the public house shall be constructed and put into an Operational State to the reasonable satisfaction of the [Council's] director not later than 12 months after the date of occupation of the first dwelling at the site".



5. The fifth schedule specifies:

"At the written request of the owner the Council shall provide written confirmation of the discharge of the obligations contained in this deed when satisfied that such obligations have been performed".

6. The two dwellings have been constructed together with the public house which, from an internal inspection, includes a large ground floor space suitable for a bar and dining area with a separate storage room at one end, layout for toilets at the other and kitchen space with stores to the rear. The first floor is divided by unfinished internal partitions into various rooms which could have a variety of uses. Whilst the two dwellings are now occupied, the public house building is unoccupied and requires considerable internal finishing and fitting out works.
7. The appellant, who now owns the public house building, states that both the dwellings and public house were constructed in 2015 with the first dwelling (Sweet Bay Cottage, still in their ownership) first occupied on 18 September 2015 and the second dwelling (Wild Cherry Cottage) sold and first occupied on 8 December 2015. In addition, on 21 July 2015, a Premises Licence No PL1067 was granted by the Council for "the sale by retail of alcohol for consumption on and off the premises" between 10am and 11pm daily with opening hours 10am to 12 midnight. A copy was provided with the appeal documentation.
8. Although the premises licence has since lapsed, the fact of its issue in July 2015 demonstrates that the building fulfilled the Section 106 agreement definition of being put into an "Operational State" at that time. The definition was that a premises licence could be issued. Furthermore, this requirement was met *prior* to the occupation of the first dwelling on 18 September 2015, so well before the deadline in the agreement of a year *after* this occupation date. The requirement was also met prior to the occupation of the second dwelling on 8 December 2015, the backstop date in the Section 106 agreement.
9. The Council, who failed to determine the current application, have confirmed in writing their view that the issue of the premises licence is determinative in this case and that the obligation has therefore been met. The obligation in the third schedule therefore no longer serves a useful purpose and it follows that the appeal must succeed.
10. Under the fifth schedule the owner is entitled to written confirmation that the obligation has been performed. This decision letter serves that function.
11. Local residents understandably wish to see the public house in the village reopen. It is important to note that this appeal decision does not affect the current planning or asset of community value status of the building, it only relates to the obligation within the Section 106 agreement.

## Conclusion

12. Having regard to the above the appeal is allowed.

*David Reed*

INSPECTOR



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## Appeal Decision

Site visit made on 10 November 2020

**by Benjamin Clarke BA (Hons.) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Wednesday, 25 November 2020**

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**Appeal Ref: APP/J1915/W/20/3252844**

**Land adjacent Lorne Croft, Wellpond Green, Standon SG11 1NJ**

- 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 & Mrs L. & M. Petrie against the decision of East Hertfordshire District Council.
  - The application Ref: 3/20/0307/FUL, dated 19 February 2020, was refused by notice dated 15 April 2020.
  - The development proposed is the erection of a detached, four-bedroom dwelling with associated driveway and amenity area.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - the suitability of the site as a location for a residential development;
  - the effect of the development upon the character and appearance of the surrounding area;
  - the effect of the development upon ecology;
  - the effect of the development upon highway safety;
  - whether appropriate refuse storage could be provided; and
  - if any harm caused in respect of the above issues is outweighed by the personal circumstances of the appellant.

### Reasons

#### *Suitability of the site*

3. The appeal site consists of an area adjacent to the garden of Lorne Croft. It has a more natural appearance that contrasts with the form of the existing dwelling and its garden. The site is accessed via a track and is near to other dwellings.
4. Whilst this siting means that the dwelling would not be isolated, residents of the proposed dwelling would need to travel to other settlements in order to access all of the services and facilities that they may require on a day-to-day basis.

5. Whilst I acknowledge that the relevant distances might not be overly large, the surrounding road network is of a narrow, sinuous and sometimes uneven nature. These characteristics are combined with limited streetlighting and verges and a lack of separate environments for pedestrians and cyclists. This means that any pedestrians or cyclists would potentially come into conflict with motor vehicles owing to the nature of the road network.
6. This would be particularly concerning in times of poor light or inclement weather, where residents might reasonably be reluctant to undertake a potential journey by such a method.
7. In consequence, the lack of a welcoming environment for pedestrians and cyclists is likely to increase the reliance of the occupiers of the development upon private cars as a means of travelling to and from the site, irrespective of the actual distances that might need to be travelled.
8. In addition, the surrounding area does not appear to be well served by public transport. In consequence, there does not seem to be a satisfactory alternative within the surrounding area to travelling by private car.
9. Although the actual appeal site might not be within open countryside, it would be located some distance away from existing houses. Furthermore, these existing houses are generally arranged in a linear form and face one of the highways within the vicinity. The proposed development would be located to the rear of existing dwellings. In consequence, it cannot be considered to represent an infill development within a village as it would not be sited within a linear form of existing developments.
10. I therefore conclude that the appeal site represents an unsuitable location for a residential development. The development, in this regard, would conflict with the requirements of Policies DPS2, VILL3 and GBR2 of the East Hertfordshire District Plan (2018) (the District Plan). These, amongst other matters, require developments to be located in a hierarchy of sustainable settlements; relate well to the village in terms of location, layout and connectivity; and encourage developments to maintain the countryside.

#### *Character and appearance*

11. The appeal site is located to the rear of the existing dwelling, which is also served by a garden and some outbuildings. Near to the appeal site are some additional buildings, some of which are in use as residential dwellings. In addition, the site is next to open countryside. The site is also in the Nags Head Field, Wellpond Green Local Wildlife Site due to its grassland interest.
12. Whilst the proposed dwelling would be of a single storey, it would have a relatively large footprint. In consequence, the development would amount to a relatively sizeable building that would be at odds with the predominantly open and verdant character of the precise appeal site.
13. By reason of the site's individual location, it forms a transitional space between the open countryside and the more developed form of the settlement of Wellpond Green. Although within the curtilage of the existing dwelling, the specific location of the proposed dwelling currently has a very different appearance to the remainder of the garden and built form. In consequence, its development and replacement with a dwelling would lead to an erosion of this characteristic owing to the increase in built form. This would occur even if I

were to agree with the appellant that the proposed development was not in a backland location.

14. In addition, the proposed development would include an area for vehicle parking and manoeuvring, as well as a driveway. Owing to the change of surface treatments, this would also add to the overall built form of the development and change in the character of the surrounding area.
15. Furthermore, as a dwelling, there is a likelihood that the garden would include items of domestic paraphernalia, such as sheds. This would add to the general built and developed form of the proposal. In consequence, the proposed development has the potential to significantly alter the character and appearance of the site.
16. This is particularly concerning owing to the general prominence of the site. Views of the appeal proposal would be possible from some of the surrounding dwellings and their gardens, in addition to some of the public routes that exist within the surrounding area. In consequence, the proposal has the potential to be experienced by a significant number of people and, in result, the incongruous form of development would be readily apparent.
17. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the surrounding area. The development, in this regard, conflicts with Policies GBR2, VILL3, DES2, DES3, DES4, NE1 and NE2 of the District Plan.
18. These policies, amongst other matters, seek to ensure that new developments be well designed and in keeping with the character of the village and the rural area; conserve, enhance or strengthen the character and distinctive features of the landscape; be of a high standard of design and layout; safeguard the nature conservation value of the site; and provide a net gain in biodiversity.

### *Ecology*

19. The appeal site consists of an undeveloped area and part of the garden of the existing dwelling. The site therefore has a natural appearance. There are also some mature trees adjacent to the site's boundaries. Beyond the appeal site is open countryside.
20. By reason of the nature of the proposed development, the undeveloped appearance of the site would be eroded. This would therefore reduce some of the natural features of the site. The consequence of this is that the potential of the site to provide a suitable habitat for wildlife would be diminished.
21. In consequence, the absence of an appropriate survey into the presence of matters of ecological note is particularly concerning. This is because it has not been conclusively demonstrated that the proposed development would not have an adverse effect upon the ability of the site to support wildlife habitats.
22. I acknowledge the suggestion that a condition could be imposed that would cover the carrying out of survey work. This would also, if needed, identify additional mitigation to be provided.
23. However, without certainty regarding the level of ecological activity, it is therefore not possible to reasonably impose such a condition. The reasoning for this is that it is not possible to precisely state the level of mitigation at this

juncture that might be required and whether this could be maintained and retained throughout the life of the development if needed. In consequence, such a condition would lack sufficient precision to be reasonably imposed and would therefore be unreasonable.

24. I therefore conclude that the proposed development would have an adverse effect upon ecology. The development, in this regard, conflicts with Policies NE1 and NE2 of the District Plan. These policies, amongst other matters, seek to ensure that new developments safeguard the nature conservation value of the site; and provide a net gain in biodiversity.

#### *Highway safety*

25. The proposed dwelling would be accessed via its driveway, which would cross the existing garden and run from a track. This is, in turn, served by a road.
26. Whilst larger vehicles, such as fire appliances, might only be expected to be at the site on an occasional basis, the fact that the requirement for their presence cannot be discounted does raise some concerns.
27. In particular, the limited space within the site for a larger vehicle to turn around is concerning. It can also be reasonably anticipated that, at times, there might also be multiple cars parked on the site that are associated with occupiers of the development.
28. Whilst I am aware that a larger driveway and turning area could be provided, I do not have details of the likely scale of this before me. In consequence, I am mindful that an increase in the level of built form has the potential to add to the previously adverse effects on the character and appearance of the surrounding area owing to a greater amount of additional hard surfacing, in addition to the greater loss of planting. In result, I do not find that this suggestion is sufficient to overcome my previous concerns.
29. In consequence, should there not be enough room to turn a large vehicle, such as a fire appliance, manoeuvring onto and off the driveway utilising the track may cause conflict with other users, such as pedestrians owing to its relatively narrow width and general lack of forward visibility. This would not be conducive to securing satisfactory levels of highway safety. In reaching this view, I have also had regard to the requirements of the National Planning Policy Framework (the Framework), which is clear that developments that have an adverse effect on highway safety should be resisted.
30. I therefore conclude that the proposed development would have an adverse effect on highway safety. The development, in this regard conflicts with Policy TRA2 of the District Plan. Amongst other matters, this policy requires that new developments are acceptable in highway safety terms.

#### *Refuse storage*

31. The proposed development would include a relatively large garden and access road.
32. As a house with a garden, there would be sufficient space within the development to accommodate an area for the storage of refuse in convenient proximity to the dwelling. This would ensure that residents of the development would have adequate access to such a facility.

33. Residents of the development would need to carry such refuse to the edge of the appeal site, which would be some distance. However, the relative infrequency that such journeys would need to be made would not generate excessive levels of inconvenience to the occupiers of the development.
34. Although limited details of refuse storage have been submitted with the proposals, had I been minded to allow this appeal I could have imposed conditions that would require additional refuse storage to be agreed with the Council at an appropriate juncture and for this to be implemented and retained throughout the life of the development.
35. Furthermore, conditions could have been imposed regarding the surfacing of the access into the development. This would have aided the movement of refuse to the appeal site edge.
36. I therefore conclude that the proposed development could provide appropriate refuse storage. The development, in this regard, complies with Policy DES4 of the District Plan. This, amongst other matters, requires that developments make provision for the storage of bins.

### **Other Matter**

37. I note concerns raised by the appellant regarding the manner in which the Council considered the planning application. However, in assessing this appeal, I have limited my considerations to the planning matters before me.

### **Planning balance and personal circumstances**

38. I have carefully considered the reasons why the appellant has applied for planning permission for the proposed development. Given the nature of the information before me, as part of the appeal documentation, it would not be appropriate for me to outline the specific reasons why planning permission was applied for. Nonetheless, I have no doubt that the proposed development would result in improved conditions for the appellant's family. These are personal circumstances to which I attribute weight in favour of the appeal.
39. In weighing the personal circumstances in the planning balance, this must be considered against the very significant effect that the proposal would have on the character and appearance of the surrounding area, the harm arising from the site being an unsuitable location for a residential development and the adverse effects on highway safety and ecology.
40. I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which specifies the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act 1998, which requires that decision makers have due regard to Human Rights and any protected characteristics in making a decision.
41. In respect of the above, a refusal of planning permission is a proportionate, and necessary approach to the legitimate aims of ensuring that residential dwellings are located in appropriate locations; that the character and appearance of an area is maintained; and that developments do not have adverse effects on highway safety and ecology.

42. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the family of the appellant's human rights. Therefore, whilst I acknowledge the personal circumstances of the appellant's family, I conclude that this is not a matter that outweighs the harm that would be caused by the proposed development in respect of my previous conclusions on the other main issues.

### **Conclusion**

43. Whilst I recognise that a condition could be imposed that would ensure that appropriate refuse storage could be secured by a condition, this would not overcome my concerns in respect of the other main issues. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR

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## Appeal Decision

Site visit made on 22 October 2020

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 November 2020**

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**Appeal Ref: APP/J1915/W/20/3254838**

**Dalmonds Wood Farm, Mangrove Road, Brickendon, Hertford SG13 7QA**

- 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 Eamon Bourke of Dalmonds Wood Farm Limited against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0337/FUL, dated 17 February 2020, was refused by notice dated 4 May 2020.
  - The development proposed is described as: 'change in use of existing disused reservoir from agricultural use to recreational use in the form of private fishing and the installation of a small boat to be let for holiday accommodation in association with the private fishing use'.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues of this appeal are:
  - i. whether the proposed development would be inappropriate development in the Green Belt;
  - ii. the effect of the proposed development on the openness of the Green Belt;
  - iii. the effect of the proposed development on the character and appearance of the appeal site and surrounding area; and,
  - iv. if the proposal is inappropriate development in the Green Belt, 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 necessary to justify the development.

### Reasons

#### *Background*

3. It is confirmed in the Officer Report that the principle of the change of use of the land and reservoir for the provision of outdoor sport/recreation in the form of private fishing would be acceptable. Additionally, it acknowledges the associated landscape planting, grading engineering works to the sides of the existing reservoir to provide shallow margins, the installation of 5 small wooden fishing platforms (1m x 1.5m) and the formation of an informal parking area for 3 vehicles would also be acceptable, causing no Green belt



harm. The main area of dispute between the main parties surrounds the provision of a holiday let in the form of a sailing boat (the boat), moored on the reservoir. The boat would have approximate dimensions of 7.6m long x 3.6m wide. On the evidence before me, I have little reason to disagree with the Council's observations on these matters and have therefore dealt with the appeal on this basis.

#### *Inappropriate development*

4. The National Planning Policy Framework (the Framework) states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 145 of the Framework.
5. In the Planning Statement it is confirmed that the boat would have its engine and fuel tank taken out to ensure potential sources of pollution are removed. Therefore, on this basis, the boat would have a degree of permanence. However, although the boat would be used for residential purposes, it cannot to my mind be equated to a new 'building' and in turn to a 'dwelling'. I consider that the correct approach is firstly to note that paragraph 145 refers only to buildings.
6. Therefore, based on the above, I find paragraph 146 to be more appropriate in this instance, which states: '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'. Particular relevance in this case is paragraph 146 e), which states: 'material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)'. Even if I decided that the boat constituted a 'new building' for the purposes of the Framework, paragraph 145 b) still requires the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation facilities to preserve the openness of the Green Belt and not to conflict with the purposes of including land within it.
7. Consequently, the proposed development would not be inappropriate development unless it would have a greater impact on Green Belt openness and purposes. My conclusions on the next issue will, therefore, determine whether or not the development is inappropriate.

#### *Openness*

8. The Framework indicates that openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open. The Planning Practice Guidance (PPG) identifies factors which can be taken into consideration when assessing the impact of a development on Green Belt openness. It states that openness is capable of both spatial and visual aspects.
9. The appeal site is located in the open countryside and is partially screened by mature trees and vegetation on the site boundaries, which reduces its visual effect. Nonetheless, the effect on openness is not just about the degree to which a structure would be visible to the public realm, but it is also concerned about the spatial aspect of encroachment on openness which can result from the effect of even small structures, such as the boat.



10. I recognise that the boat would be of a simple design, relatively small in scale, occupying a small part of the reservoir. Nonetheless, the boat would introduce additional bulk and massing to the site and therefore, in spatial terms, would have a harmful impact upon the openness of the Green Belt. It follows that whilst the proposal would not be visually intrusive in terms of openness, it would nonetheless, have a moderate impact on openness due to its spatial characteristics.
11. Whilst the appeal site is only small, even small incursions into the Green Belt can erode it, meaning that it's lost forever. There is no definition of "openness" in the Framework, but it is commonly taken to mean the absence of built or otherwise urbanising development. I conclude that the proposal would have a moderate harmful impact on the openness of the Green Belt and would, therefore, represent inappropriate development.

#### *Character and appearance*

12. The reservoir is approximately 3500m<sup>2</sup> in area and is an open expanse of water with minimal surrounding vegetation and the site has a visual connection with the surrounding open countryside, especially with the adjoining agricultural fields. The boat would be moored in the north east section of the reservoir, although I note that this location is indicative. Additionally, I acknowledge that the immediate area surrounding the site reservoir would benefit from a scheme of native tree planting.
13. However, whilst I accept that it is not unusual to find boats on expanses of water, I do consider in this instance that a 'sailing vessel' of the type indicated in the Planning Statement would appear as an unusual feature on the site, as such a vessel would not normally be moored on such an expanse of inland water. Additionally, on the limited details before me, I cannot be certain that such features as the mast or the sails would not be raised. I have considered whether suitably worded conditions could be imposed to ensure that otherwise unacceptable development could be made acceptable in this respect, but this is not possible in this instance.
14. For the reasons given above, I conclude that the proposal creates moderate harm to the character and appearance of the appeal site and surrounding countryside. The development therefore fails to accord with the design, character and appearance requirements of the Framework.

#### *Other considerations*

15. I have concluded that the proposal represents inappropriate development in the Green Belt and harms the openness of the Green Belt. Substantial weight should be given to this harm. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
16. Whilst no formal case has been put forward by the appellant to demonstrate very special circumstances, I acknowledge there would be some limited economic and social benefits resulting from the proposal. I also recognise that the Framework<sup>1</sup> seeks to support a prosperous rural economy, including the development of tourism. The proposal would complement the appellant's existing rural business, utilising the existing reservoir, where the tourist

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<sup>1</sup> Paragraph 83

accommodation would be provided in an attractive countryside location and relatively close to surrounding settlements and other holiday lets. There is no good reason to take the view that the proposed accommodation would not be successful in attracting visitors. However, I have found harm to the Green Belt by way of inappropriateness and the moderate harm to openness to which I must attach significant weight.

17. Consequently, these considerations, along with the other matters identified in the evidence either individually or collectively, do not clearly outweigh the identified harm to the Green Belt so as to amount to the very special circumstances necessary to justify the proposal.

### **Other Matters**

18. The Council has raised concerns surrounding the viability of the proposed holiday let in the Officer Report, albeit providing little evidence to support its assertion. However, as I am dismissing the appeal for other reasons, I have not needed to consider this matter further.
19. The appellant has also expressed concerns about the way that the Council handled the application, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

### **Green Belt Balance**

20. In summary, therefore, the appeal proposal would be inappropriate development in the terms set out in the Framework and lead to a moderate loss of openness to the Green Belt. Furthermore, the proposed development would cause moderate harm to the character and appearance of the appeal site and surrounding countryside.
21. Having carefully considered the benefits of the proposal and all other considerations, I find that individually and cumulatively, they would not clearly outweigh the substantial weight given to Green Belt harm and other identified harm. As such, the very special circumstances needed to justify the proposal in the Green Belt do not exist in this case. Accordingly, there is conflict with Policy GBR1 of the Council's District Plan 2018 and the requirements of the Framework.

### **Conclusion**

22. Taking all matters into consideration, I conclude that the appeal should be dismissed.

*W Johnson*

INSPECTOR



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## Appeal Decision

Site visit made on 11 November 2020

**by Benjamin Clarke BA (Hons.) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Wednesday, 25 November 2020**

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**Appeal Ref: APP/J1915/W/20/3253952**

**Land rear of 138 Hertingfordbury Road, Hertford SG14 2AL**

- 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. Johnson (Willowmead Construction Ltd) against the decision of East Hertfordshire District Council.
  - The application Ref: 3/20/0635/FUL, dated 23 March 2020, was refused by notice dated 18 May 2020.
  - The development proposed is the erection of a new property, comprising 1no. one bed, 1no. two bed and 2no, three-bedroom flats with associated parking, cycle and bin stores.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - The effects of the development arising from car parking;
  - whether appropriate living conditions would be provided for the future occupiers of the development;
  - whether the proposed development would provide appropriate refuse storage; and
  - the effect of the development upon the character and appearance of the surrounding area.

### Reasons

#### *Effects of the development arising from Car parking*

3. The proposed development includes four dwellings in total and four separate, off-street car parking spaces. Hertingfordbury Road is a dual carriageway leading into the settlement of Hertford. The appeal site is served by a spur of Hertingfordbury Road, which also serves as access to a number of other dwellings. There are some driveways and dropped kerbs within the section of the road. The site is near to Valeside, which features a number of corners and dropped kerbs.
4. Amongst other dwelling types, the development includes some three-bedroom flats. By reason of their scale, there is a reasonable likelihood that some would

- be occupied by families. In consequence, at times, a larger number of vehicles might be required to be present at the site.
5. Owing to the limited number of spaces within the development, some cars might be displaced into the surrounding streets. This poses a concern as the layout of the surrounding streets and presence of dropped kerbs there does not appear to be an abundance of car parking spaces within the vicinity of the site. In addition, the availability of on-street car parking is further reduced due to restrictions being in place in parts of the nearby road network.
  6. In consequence, the displacement of cars associated with the proposed development onto the surrounding road network is likely to lead to an erosion of highway safety as residents might be encouraged to park in inopportune locations. This would potentially reduce the level of visibility of motorists when entering or leaving a driveway or turning at a junction.
  7. On my site visit, I noted a number of vehicles parked on pavements, which reduces the amount of space for pedestrians to move within the vicinity. Whilst I appreciate that my site visit represents a single snapshot in time, should this occur on a regular basis, my concerns would be heightened. This increased competition for car parking spaces is also likely to cause greater inconvenience for the occupiers of neighbouring properties owing to the lack of alternative available spaces in the vicinity.
  8. Due to the location of the proposed development on one of the main routes into Hertford, I acknowledge that residents would have some access to public transport provision. However, whilst this would be of some use, it would not necessarily serve as a suitable alternative for all journeys. In addition, the use of bicycles may not always be an adequate alternative. As such, these points do not overcome my previous concerns.
  9. Furthermore, owing to the scale of the development, occupiers of at least some of the dwellings might own multiple cars, and visitors arriving at different dwellings at similar times cannot be discounted. In consequence, the presence of public transport routes does not overcome my previous concerns.
  10. No objections have been raised to the development by the local Highway Authority. However, whilst this is a matter of note, it is only one of the points that must be considered and therefore does not overcome my previous concerns.
  11. I therefore conclude that the proposed development would have an adverse effect upon highway safety and the living conditions of neighbouring properties. The development, in this regard, would conflict with Policies TRA3 and DES4 of the East Hertfordshire District Plan (2018) (the District Plan). These, amongst other matters, seek to ensure that car parking should be integrated as a key element of design to ensure good quality and safe environments; and avoid significant detrimental impacts on the occupiers of neighbouring properties.

#### *Living conditions*

12. The footprint of the proposed development would encompass a significant proportion of the site. The dwellings to the rear of the site are also located on significantly higher ground when compared to the dwellings in Hertingfordbury Road due to topography. As a result, the windows of the dwellings are concentrated on some elevations.

13. The proposal details that Unit 1 (as shown on the submitted plans) would feature a light well. Whilst this would ensure that residents of this particular dwelling would experience an appropriate amount of light, when this is combined with the limited number of windows, the level of outlook for some rooms would be diminished owing to the proximity of the sides of the light well. This is particularly concerning given that one of the effected rooms would be the dwelling's kitchen and living room, which is likely to be used on a regular basis.
14. In consequence, the presence of light wells would not appropriately mitigate the concerns arising from the relative lack of windows within the dwelling.
15. Unit 2 (as shown on the submitted plans) would have windows that would be directly adjacent to part of the car parking area. This dwelling would also be near to the car parking area of an adjacent dwelling. Owing to this relationship, any parked cars would need to be manoeuvred near these windows.
16. This is likely to generate excessive noise and disturbance that would prevent occupiers of this particular dwelling from experiencing satisfactory living conditions. Furthermore, such vehicles might reasonably be expected to manoeuvre during late nights and early mornings where the occupiers of Unit 2 might expect a greater level of peace and quiet. As the development would be occupied by separate households, it is unlikely that vehicle movements could be co-ordinated to prevent this from having an adverse effect on living conditions.
17. The car parking spaces and manoeuvring area would be available for use by all occupiers of the development. Owing to the proximity of these areas to the windows, the movement of people would allow for clear views into Unit 2. This would erode the level of privacy that residents of this dwelling would experience.
18. This is particularly concerning as the proposal would comprise four separate households. In consequence, not all residents are likely to be well known to each other. This would mean that the loss of privacy to occupiers of Unit 2 would be significant. Owing to the layout of the dwelling, it would not be possible for residents of Unit 2 to utilise different rooms of the dwelling to overcome this matter, whilst also experiencing appropriate levels of light and outlook.
19. By reason of the scale of the site, the outdoor recreation areas are relatively small. This is particularly concerning as Units 3 and 4 would both feature three bedrooms. In result, they could be occupied by families. In consequence the lack of appropriately sized private garden space would reduce the ability of residents to undertake private outdoors recreation, including outdoor play.
20. The proposed development would feature dwellings of an appropriate size and these are likely to meet the needs of the future occupiers. This would also allow for the storage of household items, whilst separate cycle storage has been provided. However, this would not overcome the issues regarding noise, light and outlook as previously identified. Furthermore, the presence of outdoor recreation areas would not overcome the previous concerns.
21. I therefore conclude that the proposed development would not provide appropriate living conditions for all occupiers of the proposed development. The

development, in this regard, would conflict with Policies DES4 and EQ2 of the District Plan. Amongst other matters, these seek homes, that are flexible to future adaptation, including the changing needs of occupants; and to ensure that developments be designed in a way that minimises the direct and cumulative impact of noise on the surrounding environment.

#### *Refuse storage*

22. The proposed development would be set back from the highway edge and would be accessed via a private service road. This would be shared with occupiers of the adjacent residential development. A refuse storage area has been illustrated but is outside of the red line as denoted on the site plan.
23. Whilst the refuse storage area could accommodate some large sized bins in order to store refuse and recycling materials for the development's residents, this would be located some distance away from the actual dwellings and via a relatively steep service road, which would be inconvenient.
24. In addition, the fact that it is outside of the appeal site, as illustrated by the red line of the proposed site plan means that I cannot be certain that a condition requiring the implementation and retention of the proposed refuse storage would meet the statutory tests.
25. This is particularly concerning as owing to the relatively small outside areas that have been allocated to each dwelling, there are limited areas where refuse and materials for recycling might be stored. In consequence, should such refuse and recycling materials be stored within such areas, it would limit their effectiveness as an area where residents might undertake outdoors recreation, or outdoor play.
26. I therefore conclude that the proposed development would not provide appropriate refuse storage. The development, in this regard, would conflict with District Plan Policy DES4. This, amongst other matters, seeks to ensure that developments make provision for the storage of bins.

#### *Character and appearance*

27. The proposed development would be located to the rear of properties in Hertingfordbury Road and near to an existing, backland development. The buildings within the surrounding area are constructed to different designs and are set back from the highway edge by differing amounts. The surrounding area also features a garage court.
28. Owing to the mixture of building types, designs and locations within the vicinity of the appeal site, the surrounding area does not feature a single defining building style. Accordingly, the proposed development, whilst being of a different design to many other nearby buildings, would not appear to be particularly discordant as it would complement the variety of built form within the surrounding area.
29. In addition, the proposed development would be located alongside an existing backland development, which although constructed to a different design has a similar mass to the proposed development. In consequence, this relationship would prevent the proposal from eroding the character of the area.



30. The proposed development would be screened, to a significant degree by the existing dwellings in Hertingfordbury Road and Valeside. In consequence, the proposed development would not be readily visible from the wider area and any views of the development would generally be fleeting in nature and obscured by other buildings.
31. Therefore, whilst the proposed development would include four dwellings, vehicle parking areas, manoeuvring areas and a cycle store, it would not appear unduly strident or prominent.
32. Furthermore, had I been minded to allow this appeal, I could have imposed a condition to secure the implementation and retention of some soft landscaping. Whilst such areas of landscaping would be relatively small, they would reduce the overall effect of the increased built form.
33. I therefore conclude that the proposed development would not have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would conform with District Plan Policies DES3, DES4 and HOU2. These, amongst other matters seek to ensure that new there is no net loss of landscaping features; that developments be of a standard of design that reflects and promotes local distinctiveness and be informed by the character of the local area.

### **Other Matters**

34. My attention has been drawn to previous appeal decisions in respect of this site. I do not have all of the information regarding their planning circumstances, which lessens the weight that I can attribute to them. Furthermore, I note that they pertain to a different nature of development to the one before me as they relate to a single dwelling. Accordingly, the presence of these decisions does not overcome the concerns that I have previously identified.
35. The proposed development would result in development of a site within the existing urban area and would add to the local supply of housing. Whilst these are matters of note, they do not outweigh my conclusions in respect of the main issues.

### **Planning balance and conclusion**

36. The proposed development would not have an adverse effect on the character and appearance of the surrounding area. Whilst this is a matter of note, this does not outweigh the adverse effects arising from the negative effects from the car parking, the lack of appropriate refuse storage and the lack of appropriate living conditions for the future occupiers of the development. Accordingly, for the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR

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## Appeal Decision

Site visit made on 10 November 2020

**by Benjamin Clarke BA (Hons.) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Wednesday, 25 November 2020**

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**Appeal Ref: APP/J1915/W/20/3253823**

**Walnut Tree House, Acorn Street, Hunsdon SG12 8PG**

- 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 & Mrs P. & M. Morris against the decision of East Hertfordshire District Council.
  - The application Ref: 3/20/0636/FUL, dated 23 March 2020, was refused by notice dated 29 May 2020.
  - The development proposed is the conversion of an existing stable and hay and tack store building to create a three-bedroom dwelling and two parking spaces.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - the suitability of the site as a location for a residential development;
  - the effect of the development upon the character and appearance of the surrounding area; and
  - the effect of the development upon the availability of equine facilities.

### Reasons

#### *Suitability of the site*

3. The appeal site is located on the periphery of the village, with fields to the rear and one side of the site. Dwellings within the surrounding area are generally arranged in a linear form.
4. The proposed dwelling would be located within the existing stable building, however, there are some large areas of open areas immediate adjacent to it. Therefore, notwithstanding the precise classification of the settlement, the proposed development cannot be accurately described as being an infill development.
5. Furthermore, due to the nature of the appeal site's location, residents of the development are likely to need to travel to other settlements in order to access all the services and facilities that they may need on a day-to-day basis.
6. On account of the nature of the settlement, there is less access to public transport. Whilst there are pavements between the appeal site and the nearby



- settlement of Hunsdon these are relatively narrow and have limited lighting. This means that these pavements might not be attractive routes for all occupiers of the development, such as those with pushchairs. Furthermore, their relatively narrow width and lack of lighting may also deter some pedestrians during periods of poor weather or lighting.
7. The lack of a welcoming pedestrian environment is therefore likely to deter residents of the development from undertaking journeys by methods such as walking and would, in turn, increase the usage of private cars for travel.
  8. This means that irrespective of the proximity of the proposed development to the settlement of Hunsdon, residents are likely to be reliant upon private vehicles for the bulk of their travel. Furthermore, the appeal site lies outside of the settlement boundaries of Hunsdon.
  9. My attention has been drawn to other developments within the surrounding area. I do not have the full information regarding their planning circumstances, which lessens the weight that I can attribute to them. Nonetheless, I note that these were permitted under the provisions of a different development plan. Given that the proposed development would result in more people living within the locality, residents of the proposed development are more likely to meet other people when using the pavements in the vicinity. Owing to the relatively narrow width of the pavements, some people might need to step into the road in order to pass. This would cause potential conflict between pedestrians and passing vehicles. In result, the presence of other developments in the surrounding area does not overcome my previous concerns.
  10. The appellant has highlighted Policy VILL3 of the East Hertfordshire District Plan (2018) (the District Plan). Whilst this policy identifies some residential developments as being acceptable, the policy is clear that developments will be permitted in villages with an adopted Neighbourhood Plan. The evidence before me indicates that there is no currently adopted Neighbourhood Plan covering the appeal site.
  11. Furthermore, this policy also highlights that such development should be a limited infill. Whilst the proposed development would be adjacent to an existing dwelling, there would be open areas to one side and to the rear. In consequence, the proposed development would not be an infill. I am therefore unable to give this policy a significant amount of weight in my considerations.
  12. I therefore conclude that the siting of the proposed development would represent an unsuitable location for a proposed dwelling. The development, in this regard, would conflict with Policies GBR2, INT1 and TRA1 of the District Plan. These, amongst other matters, seek to ensure that developments are primarily located in places which enable sustainable journeys to be made to key services and facilities; specify the most appropriate types of development; and consider planning applications in accordance with the Development Plan, unless material considerations indicate otherwise.

#### *Character and appearance*

13. The proposed development would result in the conversion of the stable block to a dwelling. This would involve the installation of additional doors and windows, in addition to the creation of a garden area. The appeal site is near to the Acorn Street and close to fields. A public footpath runs across these fields.

14. The building currently has a functional style of architecture that is commensurate with its purpose. In consequence, it does not appear particularly incongruous given that it is viewed alongside fields.
15. Whilst the proposed development would not result in an enlarged building, its appearance would be substantially altered. In particular, the proposed dwelling would feature a greater number of doors and significantly larger areas of glazing. Therefore, the building would be changed so that it would have a much more domestic appearance.
16. Furthermore, the proposed development would include a garden area. In time this could feature various items of domestic paraphernalia, which would further erode the current functional style of architecture that is a feature of the site, in addition to the general open character of the landscape within this location.
17. In addition, in order to provide access and vehicle manoeuvring spaces to the development, an increased amount of hard surfacing would be provided. In consequence, this element would erode the verdant character that is a feature of this part of the appeal site.
18. These matters are of importance owing to the prominence of the site. The site is in proximity to the road and therefore the development would be visible from passers-by, in addition to the occupiers of the dwellings on the opposite side of the road. Whilst there are hedges adjacent to the road, the screening effect would only be partial and, in consequence, would not overcome my concerns.
19. In addition, views of the development would be possible from the footpath running adjacent to the appeal site. This means that users of the footpath would have views of the rear garden's boundaries and the rear elevation of the proposed dwelling. This would be in addition to the potential views of parts of any outbuildings or structures within the rear garden.
20. For these reasons, the proposed development has the potential to be experienced by many people, which would therefore exacerbate the overall adverse effects upon the character and appearance of the surrounding area. Whilst the proposed development could include some landscaping at the boundaries, this is unlikely to effectively screen the entirety of the dwelling.
21. I acknowledge that under the provisions of the existing use, items such as horse boxes might be parked at the site and open storage of hay might take place. However, such activities would be commonly associated within the countryside and would not necessarily be of the same scale as the proposed development. Accordingly, this would not outweigh my previous concerns.
22. I therefore conclude that the proposed development would erode the character and appearance of the surrounding area. The development, in this regard, would conflict with Policies GBR2, DES3 and DES4 of the District Plan. These, amongst other matters, seek to ensure that new developments have a design that is appropriate to the character, appearance and setting of the site and/or the surrounding area; that proposals demonstrate how they will retain, protect and enhance existing landscape features; and be of a high standard of design.

#### *Effect on equine facilities*

23. The appeal site consists of a stable building, and the site also features some outdoor areas. These appear to have been used on a non-commercial basis.

24. Owing to the nature and scope of the proposed development, these facilities would cease to be operational. Whilst I am conscious that it does not appear that these can be used by visiting members of the public, I have been directed towards planning policies that seek to ensure the retention of such facilities. This policy does not make a distinction between commercial and non-commercial facilities.
25. Owing to the proximity of the appeal site to the countryside it appears that such facilities may be required by future occupiers of the surrounding area on a recreational or hobby basis as it would support the carrying out of equine related hobbies within a less developed context.
26. I acknowledge that concerns have been raised regarding the access and manoeuvring areas. Whilst this might render it difficult to utilise the development with larger vehicles, it has not been conclusively demonstrated that it is not possible to utilise smaller alternatives.
27. It has also been highlighted that the appellant has not been able to accommodate their horses within the stable. However, it has not been demonstrated that a smaller number of horses could be accommodated within the existing development. As such, I do not believe that this point outweighs my previous concerns.
28. The evidence before me is not indicative that it has been established that there is not an ongoing demand for such a facility within the surrounding area. In addition, it has also not been demonstrated that the existing facilities are not of a suitable standard to continue being operational. In consequence, I do not believe that the loss of the equine facilities has been appropriately justified.
29. I therefore conclude that the proposed development would result in an unacceptable loss of equine facilities. The development, in this regard, conflicts with Policy CFLR6 of the District Plan. This, amongst other matters, requires that proposals that result in the loss of equestrian facilities should be accompanied by an Equestrian Needs Assessment which demonstrates that the facilities are no longer needed.

### **Conclusion**

30. For the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR

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## Appeal Decision

Site visit made on 10 November 2020

**by Benjamin Clarke BA (Hons.) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Wednesday, 25 November 2020**

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**Appeal Ref: APP/J1915/W/20/3253449**

**Land adjacent to Barwick Lodge, Road between Gore Lane and Kettle Green Lane, Barwick, High Cross SG11 1DB**

- 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 Chaldean Estates Ltd against the decision of East Hertfordshire District Council.
  - The application Ref, dated 27 March 2020, was refused by notice dated 20 May 2020.
  - The development proposed is the conversion of the existing outbuilding to a two-bedroom dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. A revised plan showing the provision of cycle storage has been submitted as part of the appeal documentation. Given that the Council had the opportunity to comment on the revised plan and owing to the relatively small scale and nature of the amendment, I do not consider it would cause prejudice to any party to assess the appeal on the basis of this revised plan. I have therefore proceeded on this basis.
3. I have noted references to an emerging Neighbourhood Plan. However, owing to the status of this plan and the fact that I have not been directed towards any specific policies means that I am unable to give this document a significant amount of weight in my considerations.

### Main Issue

4. The main issue is the suitability of the site as a location for a residential development.

### Reasons

5. The appeal site is located to the rear of an existing dwelling and close to a relatively small cluster of other dwellings. Beyond the appeal site is open countryside, including woodlands, of variable gradients.
6. By reason of the nature of the surrounding land uses, residents would need to travel to other settlements in order to access the array of services and facilities that they are likely to require on a day to day basis. This would occur irrespective of the fact that the proposed development would not be isolated due to its proximity to other dwellings.

7. This poses a concern as the surrounding road network is narrow, undulating and sinuous. It also lacks separate environments for pedestrians and cyclists. I also note that the appeal site is near to a ford. By pedestrians this can only be crossed by a relatively narrow footbridge. This width is also likely to deter individuals travelling with larger items, such as pushchairs.
8. In consequence, this environment is likely to deter residents of the development from travelling by methods such as walking or cycling owing to the potential conflict with motor vehicles. This conflict is therefore likely to encourage additional journeys by private cars.
9. Whilst I note that some bus services are available within the wider area, the relevant bus stops are still some distance away from the appeal site. This means that residents of the development would still have to travel, in part, on the surrounding road network which is likely to deter journeys being made on foot or by bicycle.
10. Although access to public transport might reasonably be expected to be lower than a more urban area, the absence of a readily accessible service raises concerns regarding the suitability of the development's location.
11. Residents would have access to some footpaths within the surrounding area. However, these are unlikely to be a completely satisfactory alternative owing to the lack of lighting and metalled surface. These paths also have varying gradients. In consequence, they are unlikely to represent a satisfactory alternative for all residents. In result, they do not offset my previous concerns.
12. The proposed development features cycle storage and had I been minded to allow the appeal, I could have imposed conditions requiring the implementation and retention of this element of the proposal. Whilst this matter would ensure that residents of the proposed development would have adequate storage for bicycles, this would not address my previous concerns regarding the nature of the surrounding road network.
13. My attention has been drawn to Policy DPS2 of the East Hertfordshire District Plan 2018 (the District Plan), which provides a hierarchy for the location of new developments. The development would not be sited within one of these locations, however, I have identified some adverse effects arising from the siting of the proposed development. Therefore, the fact that the proposed development would not be located within one of the specified areas carries some weight.
14. The proposed development would result in the re-use of the building in addition to some improvements, such as through the removal of the asbestos roof. These would be of some benefit. However, given that I have identified harm arising from the location of the proposed development, such benefits are outweighed.
15. There is an extant planning permission to change the use of the existing outbuilding to an annexe and that this permission is still capable of being fully implemented. Accordingly, it carries some weight in my considerations. However, an annexe would be occupied by members of the same household as the existing dwelling. As such, there is a greater opportunity for shared journeys and trips.

16. Therefore, the scheme before me would be used on a more intensive basis as the scheme could be occupied by a family unconnected with the existing dwelling. In result, I do not believe the presence of an approval to use the outbuilding is sufficient to outweigh my previous concerns.
17. My attention has also been drawn to other proposals. I do not have the full information regarding their planning circumstances, which lessens the weight that I can attribute to them. Nonetheless, the nature of their surrounding road network is different to the scheme before me. Accordingly, these proposals do not allow me to disregard my previous concerns.
18. I therefore conclude that the proposed site would represent an inappropriate location for a residential development. The development would conflict with Policies DPS2 and TRA1 of the District Plan. Amongst other matters, these policies seek to direct new development to preferred locations and ensure that safe and suitable access can be achieved for all users.

### **Other Matter**

19. The proposed development would not have an adverse effect upon the character and appearance of the surrounding area. Whilst this is a matter of note, it is only one of all the points that must be assessed. It therefore does not overcome my conclusions in respect of the main issue.

### **Conclusion**

20. For the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR



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## Appeal Decision

Site visit made on 28 September 2020

**by A Denby BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 November 2020**

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**Appeal Ref: APP/J1915/W/20/3254917**

**Lanbrook, St Marys Lane, Hertingfordbury, SG14 2LD**

- 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 Mullins against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0723/FUL, dated 7 April 2020, was refused by notice dated 1 June 2020.
  - The development proposed is construction of a 5-bedroom, two storey dwelling following demolition of the existing dwelling after fire.
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### Decision

1. The appeal is dismissed.

### Background and Main Issues

2. The appeal site is located within the Metropolitan Green Belt and is partially within the Hertingfordbury Conservation Area (CA), though the proposed dwelling itself would be sited just outside the CA boundary. The Old Rectory, a Grade II listed building (LB), is in close proximity to, and accessed via the same driveway as the appeal site.
3. The appeal site itself comprises an area of land that was occupied by a dwelling until it was destroyed by fire and subsequently demolished. The dwelling had an extensive garden area which remains, and this includes a formal garden and tennis court. The appeal scheme proposes the construction of a new dwelling in a similar position to the previous building.
4. The main issues are therefore:
  - Whether the proposal would be inappropriate development in the Green Belt, and its effect on the openness of the Green Belt;
  - The effect of the proposed development on the character and appearance of the area, with particular regard to the setting of the CA and LB; and
  - Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.



## Reasons

### *Whether inappropriate development*

5. Policy GBR1 of the East Herts District Plan, 2018 (LP) states that proposals within the Green Belt will be considered in line with the National Planning Policy Framework (the Framework). Paragraph 145 of the Framework establishes that the construction of new buildings should be regarded as inappropriate in the Green Belt, unless they fall within certain categories of development which may be regarded as not inappropriate, subject to certain conditions.
6. Part d) of this paragraph lists the replacement of a building as one such exception, provided that the new building is in the same use, and not materially larger than the one it replaces. I appreciate that both parties have considered the dwelling as a replacement for that which existed prior to the fire. However, for something to be considered as a replacement, the element that it replaces must exist at the time the replacement development is considered. There is no existing building on the site, and as such, the proposal does not fall to be considered under the exception at Paragraph 145(d) of the Framework.
7. There is no disagreement between the parties that the land was occupied by a permanent structure and I saw on my site visit that, although the dwelling has been demolished and hoardings erected, areas of hardstanding remain visible, and as such the remains have not blended into the landscape. In my view, the proposal therefore comprises the redevelopment of previously developed land and falls to be considered under Paragraph 145(g). This exception allows for the redevelopment of previously developed land providing it would not have a greater impact on the openness of the Green Belt than the existing development.
8. The proposed new building would however have a greater impact on the openness as no building currently exists on the site. In this respect the new building would, unavoidably, lead to a reduction in the openness of the Green Belt. The proposal would also not contribute to meeting any identified affordable housing need and therefore conflicts with paragraph 145(g) of the Framework.
9. The development would not satisfy any of the other exceptions in paragraphs 145 and 146 of the Framework and as such would amount to inappropriate development in the Green Belt which Paragraph 145 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework is clear that substantial weight should be given to any harm to the Green Belt.

### *Openness*

10. A fundamental aim of Green Belt policy, as set out in Paragraph 133 of the Framework, is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Court judgments have confirmed that there can be both spatial and visual dimensions to openness within the Green Belt.
11. The proposed dwelling would be a two and a half-storey property, with a substantial crown roof, having one continuous ridgeline and substantial gable features to the front and rear elevations. It would be a substantial building and



its overall bulk and massing would, in spatial terms, have a harmful impact upon the openness of the Green Belt.

12. Openness also has a visual aspect as well as a spatial one. The appellant has indicated that due to the positioning of the site, at the end of a long private drive, and existing mature landscaping, the proposed dwelling would be well screened. Whilst the proposed dwelling would not be visible from St Mary's Lane, the site frontage is relatively open. The dwelling would occupy a prominent position. There would be open views of it on the approach from the driveway and the adjacent parkland, which existing landscaping would not screen.
13. The appellant has referred to a judgment<sup>1</sup> in relation to the consideration of openness, should a proposal be considered to be not inappropriate development under Paragraph 145 (d) of the Framework. As detailed above, I do not consider the appeal scheme falls to be considered against Para 145(d).
14. Due to its overall height and bulk, I consider that the proposed dwelling would be visually intrusive. I therefore conclude that the development would result in significant harm to Green Belt openness and I have attached substantial weight to this harm.

*Character and appearance, with particular regard to the setting of the CA and LB*

15. The proposed dwelling would have a relatively simple footprint and overall form. However due to its design, height and overall bulk it would be an imposing building, incorporating central gable projections to the front and rear and flat roof dormers to accommodate living space within the hipped roof.
16. The appeal site is partially within the CA, though the proposed dwelling itself would be sited just outside the CA boundary. The CA is centered on Hertingfordbury Road which has a linear character and St Mary's Lane which rises to St Mary's church, which as identified in the CA Appraisal and Management Plan, 2016 (CAAP), is a large building that dominates the local scene.
17. The CA includes expansive areas of open land, some having parkland characteristics and this is a particularly special characteristic of the CA which, along with other aspects such as historic buildings and mature landscaping, show the evolution of the settlement and add to the rural quality of the CA. The Old Rectory is a Grade II listed building (LB) and, as its name would suggest, is a former rectory and is positioned within a landscaped park.
18. The appeal site is accessed via a long private drive from St Mary's Lane, directly adjacent to the church, and this is also the access to The Old Rectory. Metal estate fencing, which the CAAP identifies as a prominent and important feature in the parkland setting, runs in parallel to the driveway up to the appeal site, with open parkland beyond, and there are views to the rear of The Old Rectory and its manicured gardens to the other side of the driveway.
19. The appeal site occupies a prominent position at a point where the driveway splits, providing access towards the site and sweeping round to The Old Rectory. It is very much viewed as an integral part and key feature of this

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<sup>1</sup> Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council and Valley Crown Nurseries Ltd (2016) EWCA Civ 404

- important rural parkland setting and is reflective of the special interest of the CA, retaining a verdant and open character. It also forms an important part of the history and evolution of the CA and LB, having originally been the site of a garden cottage associated with The Old Rectory.
20. I saw on my site visit that The Old Rectory is a substantial building, though it is well screened by mature trees, and appears nestled into the landscape. There are however clear views of its rear elevation and garden from the driveway. These views provide an appreciation of its grandeur and status within this established parkland setting, which is an important part of its significance. Furthermore, the CAAP identifies this as being particularly important to the setting of the LB.
21. The proposed dwelling would be visible within the same views and, due to its proposed size and design it would be a dominant building which, even considering the separation between the buildings and existing landscaping, would compete visually with the LB. This in turn would have a harmful affect upon the appreciation of the significance of the LB and detract from its setting.
22. Whilst the proposal would incorporate some aspects of the local vernacular, such as proposed materials, its bold and ostentatious design, with substantial gable features, entrance portico with balcony above, flat roof dormers and overall bulky roof arrangement, would be at odds with the more modest building sizes and architectural styles characteristic of the CA.
23. For the same reasons it would harmfully intrude on the open and rural character of the parkland setting of which it would become an intrinsic part, and this would be wholly at odds with the established character of the CA, having a negative effect on its setting. Its visual impact would be significantly greater than that of the previous dwelling on the site, which retained a low level and horizontal emphasis and, although it extended further to the rear, presented a more restrained frontage to the driveway and adjacent parkland.
24. I have paid special attention to the desirability of preserving the listed building or its setting, and to the desirability of preserving or enhancing the character and appearance of the CA, including its setting, and the result of the proposal would be less than substantial harm when considered in the context of the Framework. Whilst the proposals would provide an additional dwelling, I do not consider this public benefit would be sufficient to outweigh the harm I have identified to the CA and LB, and to which I have attached considerable importance and weight.
25. Therefore, for the reasons stated above the development would conflict with LP Policies DES2, DES3, DES4, HA1 and HA4 which amongst other things seek to ensure that developments are of high-quality design, being of a scale, proportion, form, height, design and overall character that accords with, and compliments, the surrounding area, reflecting and promoting local distinctiveness and positively conserving and enhancing the appearance and character and setting of the CA and designated heritage assets.

### ***Other considerations***

26. The proposal includes built development where none currently exists, however, it is recognised that there was a building on the site which only ceased to exist due to a fire, and since that incident there has been a clear intention to erect a

new dwelling on the site. The appellant has lost their established residential use for reasons beyond their control and I consider this factor carries great weight.

27. There is some disagreement between the parties in relation to the exact measurements and dimensions of the demolished and proposed dwellings. There is, however, general agreement that the volume and footprint of the proposed dwelling would be less than that of the dwelling destroyed by fire and this attracts some weight.
28. However, the proposed height and floorspace would be greater and from the plans submitted, it is clear that although the previous dwelling was a two-storey building the first-floor accommodation was provided for within the roof space, and so the dwelling retained a low level and horizontal emphasis. Its size and design, with outriggers and single storey elements also reduced its overall bulk, and from the details before me, although it may have had a larger footprint, it did not appear as a substantial building.
29. Therefore, that the proposed dwelling would have a more simplistic footprint and form would not weigh in favour of the proposals as due to its design, height and overall bulk it would appear as a more substantial and dominant structure and this would be more harmful than the previous dwelling.
30. The appellant has stated that the proposed dwelling would be environmentally friendly, and this is a positive matter, though there is little to suggest this would provide any sustainable measures above and beyond that required by modern building standards and therefore attracts limited weight.
31. That the proposal would not adversely impact on the living conditions of existing nearby occupiers, retain existing landscaping and utilise appropriate materials would have a neutral effect, and therefore these matters do not weigh in favour of the appeal.

### **Planning Balance**

32. I have found that the development would amount to inappropriate development in the Green Belt and that there would be significant harm caused to openness. Paragraphs 143 and 144 of the Framework make clear that inappropriate development is harmful to the Green Belt and this is therefore a matter to which I must attach substantial weight.
33. In addition, I have found that the development would also result in less than substantial harm to the setting of the CA and LB. This would not be outweighed by any public benefits and collectively this attracts considerable importance and carries substantial weight.
34. I conclude the benefits of providing a replacement dwelling following the destruction of the previous property by fire, and to which I have accorded great weight, does not clearly outweigh the harm I have identified. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt and the development conflicts with LP Policy GBR1 and the Framework.

### **Other Matters**

35. I note the appellant's concerns that the Council refer to the proposed dwelling as a 'kit house', and that reference was made to details from a website which the appellant states did not form part of the planning application. The Officer Report does however state that the Council's consideration was on the basis of the submitted plans. Nevertheless, the details of the website or information contained therein have not been made available to me as part of this appeal, and so has not formed part of my assessment.

### **Conclusion**

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

*A Denby*

INSPECTOR

Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Procedure
3/19/2226/FUL	Siting of a mobile home for a temporary period of up to 2 years in connection with the husbandry of cattle herd.	Agricultural Land West Of Orchard RoadTewin	Refused Delegated	27/11/2020	Written Representation
3/20/0158/FUL	Construction of 2 new dwellings to the rear of No. 41 to include 4 parking spaces.	Rear Of 41 Fanshawe StreetBengeoHertford SG14 3AT	Refused Delegated	24/11/2020	Written Representation
3/20/0269/FUL	Erection of 4. two bedroomed affordable dwellings, 2 three bedroomed dwellings and 2 four bedroomed dwellings with associated access, parking and landscaping	Land At Old Station YardMillers ViewMuch Hadham	Refused Delegated	11/11/2020	Written Representation
3/20/0705/FUL	Erection of a three bedroom dwelling and cart lodge	Land Adj Spring PaddocksEast EndFurneux PelhamBuntingford SG9 0JT	Refused Delegated	16/11/2020	Written Representation
3/20/0836/FUL	Erection of a detached one bedroom bungalow with new vehicle access and 2 car parking spaces.	Land Rear Of 33 Homefield RoadWare SG12 7NG	Refused Delegated	17/11/2020	Written Representation
3/20/0901/FUL	Erection of 2 detached houses to include double garages, associated external works and soft landscaping.	Falkland70A High StreetBuntingford SG9 9AH	Refused Delegated	09/11/2020	Written Representation
3/20/1040/FUL	Change of use of land to a four pitch Gypsy/Traveller site comprising the siting of 4 Mobile Homes, 4 Touring Caravans, and the erection of 4 dayroom buildings, and the formation of an internal track and hardstandings. Installation of bio disc septic tank.	Land At Millfield LaneBury GreenLittle HadhamWare SG11 2ED	Refused Delegated	12/11/2020	Inquiry
3/20/1055/HH	Construction of single storey side and rear extension.	8 Farm CloseWare SG12 7SQ	Refused Delegated	09/11/2020	Fast Track
3/20/1129/HH	Ground floor side and rear extension, first floor rear extension. Hip to gable roof extension with rear dormer, insertion of 3 roof lights to front elevation and insertion of window to side.	172 Stansted RoadBishops Stortford CM23 2AR	Refused Delegated	30/11/2020	Fast Track
3/20/1194/HH	Erection of two storey detached garage/gym/office with first floor rear terrace.	279 Ware RoadHertford SG13 7EL	Refused Delegated	19/11/2020	Fast Track
3/20/1205/HH	Proposed single storey rear extension	30 Willis GroveBalls ParkHertford SG13 8FH	Refused Delegated	17/11/2020	Fast Track
3/20/1313/HH	Hip to Gable first floor side extension above the garage and two storey rear extension.	32 Manston DriveBishops Stortford CM23 5EL	Refused Delegated	30/11/2020	Fast Track
3/20/1381/FUL	Demolition of half of existing garage and erection of 2 bedroom chalet bungalow with 2 off street car parking spaces.	Land To The Rear Of 2 Rectory LaneWatton At Stone SG14 3SG	Refused Delegated	27/11/2020	Written Representation

#### 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
3/19/1492/FUL	Eilis Edmonds	GreenleysSlough RoadAllens GreenSawbridgeworthHertfordshireC M21 0LR	Demolition of an existing barn, nissen huts and hard standing. Construction of five detached dwellings. Construction of associated access roads and landscaping.	INPROG	Public Inquiry	TBA
3/19/2002/FUL	Bruce O'Brien	St Michael's Masonic HallSpringfield CourtBishops Stortford	Demolition of a non-designated heritage asset. Erection of a two storey building containing 4, one bed apartments and 2, two bed apartments. To include 2 rear juliet balconies, creation of bin store, drying area, bike store and 10 designated parking spaces.	VALID	Hearing	TBA
3/19/2099/FUL	Nick Reed	Land Adj To Long Leys Barn Fanshaws Lane Brickendon Hertford SG13 8PG	Site to contain one static caravan, with parking for two vehicles and associated infrastructure (retrospective).	VALID	Hearing	TBA
3/20/1040/FUL	Eilis Edmonds	Land At Millfield LaneBury GreenLittle HadhamWare SG11 2ED	Change of use of land to a four pitch Gypsy/Traveller site comprising the siting of 4 Mobile Homes, 4 Touring Caravans, and the erection of 4 dayroom buildings, and the formation of an internal track and hardstandings. Installation of bio disc septic tank.	INPROG	Public Inquiry	TBA

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# DEVELOPMENT CONTROL

## Major, Minor and Other Planning Applications

**Cumulative Performance**  
(calculated from April 2020)

	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21
<i>Total Applications Received</i>	143	298	488	706	873	1072	1300	1552				

<i>Percentage achieved against Local and National Targets</i>	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21		<b>Targets for Local Performance (set by East Herts)</b>	<b>National Targets (set by Government)</b>
<b>Major %</b>	100%	100%	100%	100%	100%	87%	78%	83%					<b>Major %</b>	<b>60%</b>	<b>60%</b>
<b>Minor %</b>	92%	93%	92%	92%	92%	92%	90%	89%					<b>Minor %</b>	<b>80%</b>	<b>65%</b>
<b>Other %</b>	92%	92%	90%	91%	92%	91%	92%	92%					<b>Other %</b>	<b>90%</b>	<b>80%</b>

<i>Appeals</i>	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21
Total number of appeal decisions (Monthly)	4	6	3	5	2	14	13	18				
Number Allowed against our refusal (Monthly)	1	2	1	3	1	6	3	6				

Total number of appeal decisions (Cumulative)	4	10	13	18	20	34	47	65				
Number Allowed against our refusal (Cumulative)	1	3	4	7	8	14	17	23				

AGENDA ITEM NO. 6D

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**EAST HERTS DISTRICT COUNCIL**  
**DEVELOPMENT MANAGEMENT COMMITTEE**  
**ITEMS FOR REPORT AND NOTING**  
**DECEMBER 2020**

<b>Application Number</b>	3/18/1875/CLE
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Warrengate FarmhouseMoney Hole LaneTewinWelwynHertfordshireAL6 0JD
<b>Appellant</b>	Mr John Hesler
<b>Proposal</b>	Certificate of lawfulness of the application site for use as residential garden.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/18/2273/CLE
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Nutwood StudioWest End RoadWormley West EndBroxbourneHertfordshireEN10 7QN
<b>Appellant</b>	Paul Barham
<b>Proposal</b>	Use of Nutwood Studio as an independent, self-contained residential dwelling.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/19/1760/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Land Adjacent To Rectory FarmLangley LaneMeesdenBuntingfordHertfordshireSG9 0AZ
<b>Appellant</b>	Mr S Shaikh
<b>Proposal</b>	Erection of agricultural building, erection of 1 metre height timber fencing and provision of hardstanding.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/19/1902/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	The Old Orchard Abbots LaneWidfordWareHertfordshireSG12 8RS
<b>Appellant</b>	Mr Simon Thake
<b>Proposal</b>	Demolition of horticultural store. Erection of a two bedroom bungalow.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/19/2405/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	24 Hadham RoadBishops StortfordHertfordshireCM23 2QS
<b>Appellant</b>	Mr MANJUR CHOUDURY
<b>Proposal</b>	Retrospective application for a staff/customer covered smoking area with pitched roof and open sides
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/19/2498/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Bracken HillQueen Hoo LaneTewinWelwynHertfordshireAL6 0LT
<b>Appellant</b>	Mr J James
<b>Proposal</b>	First floor side extension and changes to fenestration.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/20/0422/FUL
<b>Decsn</b>	ND
<b>Level of Decision</b>	DEL
<b>Address</b>	Unit 1 And 2Monks Green FarmMangrove LaneBrickendonHertfordshireSG13 8QL
<b>Appellant</b>	Mr W Ashley
<b>Proposal</b>	Barn conversion to create 2 dwellings. Creation of 1st floor, insertion of windows and doors to all elevations and 4 roof lights.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/20/0599/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	31 Brookbridge LaneDatchworthKnebworthHertfordshireSG3 6SU
<b>Appellant</b>	Mr Mr K And Ms J Gymer And Florence
<b>Proposal</b>	Addition of two dormer windows to side elevations.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/20/0838/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	68 GildersSawbridgeworthHertfordshireCM21 0EH
<b>Appellant</b>	Mr D DAVISON
<b>Proposal</b>	Raising of roof and addition of 2 dormers to create first floor accommodation. Creation of a new vehicular cross over to accommodate two cars.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	X/19/0362/CND
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Glebe LandAcorn StreetHunsdonHertfordshire
<b>Appellant</b>	Hunsdon Parochial Church Council
<b>Proposal</b>	Discharge condition 3 (materials) attached to 3/12/1440/FP
<b>Appeal Decision</b>	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 visit made on 6 October 2020

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

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

**Decision date: 03 December 2020**

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**Appeal Ref: APP/J1915/X/19/3228488**

**Warrengate Farmhouse, Money Hole Lane, Tewin AL6 0JD**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is by John Hesler against the decision of East Hertfordshire District Council.
  - The application ref. 3/18/1875/CLE, dated 15 August 2018, was refused by notice dated 11 February 2019
  - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
  - The use for which a certificate of lawful use or development is sought is use of the appeal site as residential garden.
- 

### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

### Preliminary matters

3. For the avoidance of doubt, I should explain that the planning merits of the existing development are not relevant, and they are not therefore an issue for me to consider in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended, which relates to an application for a lawful development certificate (LDC). My decision rests on the facts of the case, and on relevant planning law and judicial authority.
4. For the purposes of my decision I have adopted the definition of the claimed existing use adopted by the Inspector in a 2017 appeal on this same site<sup>1</sup>. That is, use of the appeal site for '*residential purposes incidental to the residential use of the dwellinghouse*'. I have also adopted the shorthand he used for this - that is, the '*incidental residential use*'.

### Background matters

5. Warrengate Farmhouse is a substantial detached dwelling on the southern side of Money Hole Lane. The application site – which I refer to as the appeal site – is a roughly rectangular piece of land to the east of the house, having a rather irregularly shaped boundary with the land immediately surrounding the house, and including a detached plant and utility building to its south.

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<sup>1</sup> Appeal decision ref. APP/J1915/X/16/3153082, dated 24 April 2017.

6. I understand this is the third LDC application for use of the application site for incidental residential use<sup>2</sup>. The 2017 appeal was against the second of these refusals.
7. From my reading of the previous appeal decision it is apparent that since 2017 the appellant has gone to some lengths to change the appearance of the appeal site. It was previously described as generally unmanaged with an open and empty appearance as compared with the land in the immediate surroundings of the house. It is now landscaped with features such as areas of paving near the house, and decorative brick retaining walls, it is predominantly laid with newly seeded grass and has a well-maintained appearance. As before, the application land and the surroundings of the house are not defined by any barrier, and the land appears within the same field of view as the building.

### Reasons

8. The main issue for me to determine is whether the Council's decision to refuse the grant of a LDC was well-founded. In that regard the principal question is whether a change of use of the site has taken place from a mixed residential and agricultural use to a use for residential purposes incidental to the use of the dwellinghouse, and whether as a matter of fact and degree that change is material. In a case of this sort the burden of proof is upon the appellant to show that on the balance of probabilities this is the case.
9. As recited in the 2017 appeal decision, government guidance advises that if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make an appellant's version of events less than probable, there is no good reason to refuse the application, provided the appellant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability<sup>3</sup>.
10. The Inspector in the 2017 appeal analysed the nature of the planning unit in the light of the court case of *Burdle*<sup>4</sup>. He determined that all of the land under one occupation – that is, the house with its immediate surroundings and the appeal site – constitute the planning unit, which is in a mixed residential and agricultural use. I endorse this analysis and note that the appellant is in agreement with it.
11. The appellant maintains that this mixture of uses may fluctuate in intensity, and that in line with the judgment in the High Court case of *Wipperman*<sup>5</sup> the cessation of one principal use altogether is not a material change of use and does not constitute development.
12. In *Wipperman* the judgement was made that where there are two components in the use of a piece of land there can be a material change of use if one component is allowed to absorb the entire site to the exclusion of the other, but whether or not there is a material change of use is a matter of fact and degree. The Judge also came to the view that if nothing had occurred following the appellant's entry (onto the site) except the suspension of one component, with the other being maintained at its former intensity, that no question of a material change of use could be said to have arisen. He went on to say that

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<sup>2</sup> Previous decision notice refs: 3/15/1072/CLE, dated 17 July 2015 & 3/15/1738/CLE, dated 13 October 2015.

<sup>3</sup> Planning Practice Guidance – 'Lawful Development Certificates' Paragraph 006 Reference ID: 17c-006-20140306.

<sup>4</sup> *Burdle & Williams v SSE New Forest Rural District Council* [1972] 24 P. & C.R. 174.

<sup>5</sup> *Wipperman and Buckingham v SSE and Barking LBC* [1965] 17 P & CR 225.

merely to cease one of the component activities in a composite use of the land would not by itself ever amount to a material change of use.

13. It is submitted that the site is unlikely to be used agriculturally, and it is claimed that use has ceased altogether. However, the appellant cannot simply elect to say that the agricultural component has ceased and been supplanted by the incidental residential use. Such a claim should be supported by objective evidence. In LDC cases relating to changes of use this is most usually on the basis that the supplanting use has subsisted continuously for at least 10 years before the date of the LDC application and become immune from enforcement action. Evidence on this matter was examined in the 2017 appeal but found to be too ambiguous and unspecific to meet the relevant test and the appeal was dismissed. Although the Inspector suggested that a further application might be made if better evidence became available, no such evidence has been submitted in this case, and I cannot come to any different view on this.
14. The Inspector in the 2017 appeal found that the appeal site was primarily used for agriculture, and it was suggested that it was part of wider agricultural land. The appellant has put forward no substantial evidence to show that this is no longer the case, and that there has been an actual change from agriculture to incidental residential use.
15. It is not enough to state that the activities on the appeal site may fluctuate between different use components without providing evidence that this fluctuation has caused one component to effectively cease, and the other to take over the use of the entire site. In line with the *Wipperman* judgement it must be shown that the use has fluctuated to the extent that the agricultural component has become so trifling as to be almost *de minimis*, and that there has been no change in the intensity of the incidental residential use.
16. Even if the agricultural component of use has ceased, there is virtually nothing before me to indicate the intensity, extent or scale of the incidental residential use that is claimed to have supplanted it, apart from clues such as the presence of a few items of children's play equipment. If the incidental residential use is extended to cover the entire planning unit it appears to me that the overall intensity of this use will probably have increased, rather than being maintained at its former intensity. If cessation of agricultural use has occurred this would be in tandem with a likely increase in the intensity of incidental residential use, rather than simply a cessation of agricultural use. As a matter of fact and degree I consider this amounts to a material change of use.
17. I accept there have been changes made to the appearance of the appeal site, but that does not make a significant difference to the character of the site as a piece of generally open land. While it may be unlikely for the site to be used agriculturally, it is not inconceivable for a piece of land of this size, and there is no substantial evidence before me to show that the situation has significantly changed since the 2017 appeal. The changes made to appearance are essentially cosmetic and do not show that on the balance of probabilities the entire planning unit has been subsumed into a single residential use.
18. Overall I find that the appellant's evidence of use is sparse and not sufficiently precise to show on the balance of probabilities that use of the appeal site has changed from its mixed residential and agricultural use to an incidental residential use, or that this change would not be material.

## **Conclusions**

19. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of is use of the appeal site as residential garden at Warrengate Farmhouse, Money Hole Lane, Tewin AL6 0JD was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

*Stephen Brown*

INSPECTOR



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## Costs Decision

Site visit made on 6 October 2020

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

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

**Decision date: 03 December 2020**

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### **Costs application in relation to Appeal Ref: APP/J1915/X/16/3228448 Warrengate Farmhouse, Money Hole Lane, Tewin AL6 0JD**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
  - The application is made by John Hesler for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of a certificate of lawful use or development for use of the appeal site as residential garden.
- 

### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Regarding the Council's reference to residential curtilage in their reason for refusal, this was a matter fully reviewed in the 2017 appeal in relation to a comparison between the area immediately surrounding the house and the application land. It was determined the application land did not form part of the residential curtilage. If the appellant had proved his case regarding incidental residential use of the appeal site the entire unit of occupation would have become residential, and the appeal site a part of the house's curtilage. I can see no good reason why the Council should not continue to analyse the overall site in terms of residential curtilage. I do not consider this was unreasonable, or an indication that the Council had misunderstood the basis of the application. Furthermore, the appellant was not put to any unnecessary expense as a result of this reference.
4. The Delegated Officers' Report explicitly recognises the appellant's argument concerning the nature of the planning unit and reaches a different conclusion. I do not consider the Council failed to understand the difference between residential curtilage and the planning unit, or that this constituted a misapplication of the law. Again, I do not accept there was unreasonable behaviour.
5. There may well be circumstances where a component of a mixed use can cease without a resultant material change of use. However, the Council came to the view that insufficient grounds and substantive evidence had been adduced to show that use of the application land as residential garden had become lawful, and, by inference, supplanted the agricultural use component. Although

application of the 10-year time limit does not form part of the appellant's case, it remains a relevant aspect in a demonstration of the lawfulness of a material change of use. I do not consider the Council can be said to be unreasonable in referring to it, or that it caused unnecessary expense for the appellant.

6. Following issue of the LDC refusal the appellant suggested the appeal could be avoided if the Council had taken legal advice and reconsidered their decision. However, I understand that the Council refer all s.191 applications to their legal team at validation stage and have no reason to doubt this. The Council took the view that they had come to a correct decision, and that in terms of best use of resources and in the public interest the appellant might either make a formal application – which I take to mean either a planning application or a further LDC application with better evidence – or make an appeal. The appellant made the choice to appeal, but I do not consider the Council behaved unreasonably in reaching their position.

### **Conclusions**

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

*Stephen Brown*

INSPECTOR

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## Appeal Decision

Site visit made on 6 October 2020

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

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

**Decision date: 03 December 2020**

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**Appeal Ref: APP/J1915/X/19/3225834**

**Nutwood Studio, Wormley West End, Broxbourne EN10 7QN**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is by Paul Barham against the decision of East Hertfordshire District Council.
  - The application ref. 3/18/2273/CLE, dated 1 October 2018, was refused by notice dated 4 February 2019.
  - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
  - A certificate of lawful use or development is sought for use of the property as a Use Class C3 dwellinghouse.
- 

### Decision

1. The appeal is dismissed.

### Preliminary matters

2. For the avoidance of doubt, I should explain that the planning merits of the existing development are not relevant, and they are not therefore an issue for me to consider in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended, which relates to an application for a lawful development certificate (LDC). My decision rests on the facts of the case, and on relevant planning law and judicial authority.

### Background matters

3. The appeal property – which I shall refer to as ‘the Studio’ for the purposes of my decision – is a single storey timber building standing in the south-western corner of the substantial site of Nutwood House – probably some 80 metres from the house itself. The main entrance door opens into an entrance space/dining area, off which are a kitchen and WC. To one side of the entrance space a door leads to a bedroom in which there is a screened-off bath, and beyond that a large bedroom. To the other side is a room labelled on the application plan as ‘living’, which I saw is used largely for storage and gym equipment, beyond that is another room used mainly for storage. There is a garage access from the living space, in which are stored mowers and other garden equipment.
4. The Studio has a separate vehicular access from Wormley West End. Furthermore, it has its own water, and electricity meters. The Council do not dispute there is physical separation of the Studio from Nutwood House..

5. I note that a previous application for change of use of the building from a studio/workshop to a residential dwelling was refused in 1990<sup>1</sup>, subsequently dismissed at appeal. An LDC application for use of the building as a single dwellinghouse was refused in 2005<sup>2</sup>.

## Reasons

6. The main issue for me to determine is whether the Council's decision to refuse the grant of a LDC was well-founded. In that regard the principal question is whether the building has been in use as a Class C3 dwellinghouse for a continuous period of at least 4 years before the date of the LDC application – 1 October 2018. In a case of this sort the burden of proof is upon the appellant to show that on the balance of probabilities this is the case.
7. In applications for LDCs Government guidance advises that if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make an appellant's version of events less than probable, there is no good reason to refuse the application, provided the appellant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability<sup>3</sup>.
8. The appellant says that the Studio was originally occupied by Alex Kaytanskyy, who was carrying out renovation works to Nutwood House for the appellant soon after he had bought it in 2005. After completion of the works Alex Kaytanskyy's brother Roman Kaytanskyy came to live there.
9. I understand Nutwood Studio has its own metered water supply, separate from Nutwood House. Thames Water accounts for water services between July 2013 and February 2018 have been provided. These are all addressed to the appellant and refer to a supply to Nutwood House rather than the Studio and are paid by the appellant by direct debit. Although two meters are itemised, this does not demonstrate occupation of the Studio, continuous or otherwise, merely that Mr Barham has paid the water bills.
10. Documents from British Gas include electricity bills for the periods from October 2011 to December 2011 and from July 2012 to January 2013. They are all addressed to the appellant at Nutwood House, as are electricity bills from EDF Energy for the period from March 2016 to January 2019. Neither of these series of bills show continuous 4-year occupation, and again they indicate little more than the fact that Mr Barham has paid the bills. It is also claimed there is a single electricity meter for the Nutwood House and the Studio but with separate readings. However, I can see no indication of this on the documents provided.
11. Also included are British Gas annual summaries of electricity use for the years from July 2013 to July 2018. The supply address is identified as Nutwood House. No explanation is provided of the apparent overlap in electricity supply by British Gas and EDF Energy after March 2016. Again, these annual summaries do not show who occupied or whether that occupation was continuous.

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<sup>1</sup> Decision notice ref. 3/90/1485/FP, dated 1 November 1990.

<sup>2</sup> Decision notice ref. 3/04/2242/CL, dated 17 January 2005.

<sup>3</sup> Planning Practice Guidance – 'Lawful Development Certificates' Paragraph 006 Reference ID: 17c-006-20140306.

12. Documents addressed to Roman Kaytanskyy at the Studio comprise the following:
  - Council Tax Demands;
  - Statements from HM Revenue and Customs (HMRC) concerning tax credits, and HMRC P60 End of Year Tax Certificates;
  - Credit card statements;
  - Bank statements and other bank correspondence, and
  - Various communications concerning a Parking Charge Notice (PCN), the Construction Industry Training Board (CITB), the Construction Skills Certification Scheme (CSCS), and the Disclosure and Barring Service (DBS).
13. Council Tax Demands - submitted at appeal stage rather than application stage – cover the periods from April 2012 to mid-October 2014, and then from 1 April 2015 to 31 March 2019. However, given the gap of about five-and-a-half months from October 2014 to March 2015 these do not show continuous occupation for 4 years prior to the critical date of 1 October 2018. Furthermore, there is no evidence of Roman Kaytanskyy's payment of Council Tax apparent in his bank statements or elsewhere.
14. HMRC tax credit documents relate to the period from November 2012 to April 2015. However, these do not show continuous occupation of the premises for the requisite 4-year period. End of Year Tax Certificates, also addressed to Roman Kaytanskyy at the Studio cover the financial years from April 2013 to April 2016 – that is, starting from 6 April 2012. While this is a 4-year period overall, it does not conclusively show he was in occupation from as early as April 2012, nor after that time, and cannot be regarded as sufficiently precise.
15. Credit card statements are from various dates in 2014, but do not demonstrate 4 years of occupation. Similarly, bank statements only cover a single year from May 2012 to May 2013. Letters from the bank are annual summaries of account charges dated in each year from February 2014 to February 2017 – a 3-year period, and not continuous with other bank documentation.
16. The PCN and the CITB, CSCS and DBS documents relate to single events that occurred in September 2013, January 2014 and May 2015. They do not provide significant evidence of continuous occupation.
17. What appears to be the front page of a 12-month tenancy agreement between the appellant and Roman Kaytanskyy dated 27 November 2006 has been submitted. There are then signed and witnessed memoranda – all in identical format - dated late November for each year from 2007 to 2017 – each of which extend that original agreement up to November of the following year. The original agreement provided is a remarkably brief single page setting out the parties, the premises and the main terms – the latter being the tenancy period and the rent. No copy of any full agreement has been submitted.
18. I would expect a tenancy agreement to include clauses specifying responsibilities for such matters as utilities and Council Tax. I would also expect there to be some adjustment to be made in the amount of rent charged over this relatively long period of some 12 years. Mr Barham states that Roman Kaytanskyy only paid rent for his first year of occupation of the Studio, and thereafter has lived there rent-free. However, there is no evidence of

payment of rent at any time – which again, I would expect to see - or that utilities or Council Tax were paid by the tenant.

19. If Roman Kaytanskyy was occupying the Studio for the relevant period without making payments for rent, Council Tax and utilities as the appellant claims, then the documents relating to such payments – apparently made by the appellant - are of little value in establishing his continuous occupation.
20. I appreciate that the appellant considers the Studio is a building that is independent of Nutwood House in terms of the separating distance, separate road access and separate utility supplies. However, these are not relevant criteria in a case where the principal considerations are the length and continuity of residential occupation.
21. Overall, I find the evidence provided is not sufficiently precise or unambiguous to show that on the balance of probabilities Nutwood Studio has been occupied continuously as a Use Class C3 dwellinghouse for four or more years prior to the LDC application date of 1 October 2018. The appellant has not discharged his burden of proof, and the appeal must fail.

### **Conclusions**

22. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of use of Nutwood Studio, Wormley West End, Broxbourne EN10 7QN as a Use Class C3 dwellinghouse. was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

***Stephen Brown***

INSPECTOR

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## Appeal Decision

Site visit made on 18 November 2020

**by David Reed BSc DipTP DMS MRTPI**

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

**Decision date: 7<sup>th</sup> December 2020**

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**Appeal Ref: APP/J1915/W/20/3248653**

**Land at Rectory Farm, Langley Lane, Meesden, Buntingford, Hertfordshire SG9 0AZ**

- 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 Shajeed Shaikh, Mason Bloomberg Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/1760/FUL, dated 10 August 2019, was refused by notice dated 21 October 2019.
  - The development proposed is an agricultural building.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - the effect of the proposal on protected trees;
  - the effect of the proposal on ecological interests;
  - the effect of the proposal on the character and appearance of the area; and
  - whether the proposal would be sustainably located.

### Reasons

3. The proposal is for an agricultural building for mushroom production, a shingle surfaced forecourt for vehicle parking/servicing and a 1 metre high timber fence enclosure within an area of woodland to the south of Rectory Farm near the small dispersed hamlet of Meesden.
4. The building would be about 19.5m x 15.5m in size with eaves about 2.5m high and central ridge about 4.9m high. It would be constructed of traditional materials. The site has been the subject of a series of applications dating back to 2011. Two slightly proposals have been dismissed on appeal, in 2012 an agricultural building for egg farming purposes and in 2015 a building similar to the current scheme for a timber furniture workshop<sup>1</sup>.

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<sup>1</sup> APP/J1915/A/12/2177599 and APP/J1915/A/14/2225085



### *Protected trees*

5. The woodland is the subject of a Tree Preservation Order (TPO) made in 2011 in which it is described as being mainly of mixed hard woods eg Ash, Beech, Field Maple, Hawthorn, Hazel, Horse Chestnut, Oak and Sycamore. The Forestry Commission advise that the site is secondary woodland and on the National Inventory for Woodlands. Whilst the part of the woodland where the building is proposed, towards its north end, has few if any standing trees, this would appear to be due to woodland clearance. The Forestry Commission have served a legal order requiring the restocking of the woodland at 3.0m centres – about 200 trees – across the previously cleared area where the building is proposed. Those trees, once planted, would also be subject to the TPO. The appellant maintains the restocking work has been carried out but this is not readily apparent on site and there is no evidence to confirm the Forestry Commission are satisfied that the work has been completed.
6. In any event the appeal site comprises an attractive area of woodland protected for its contribution to the visual amenity of the area. Whilst the appellant argues that 91% would be retained, the woodland as a whole would be compromised. For these reasons the proposal would seriously harm protected trees, existing or restocked, contrary to Policy NE3 of the East Herts District Plan 2018 (EHDP) which states that development which would result in the loss or significant damage to trees will not be permitted.

### *Ecological interests*

7. The site is a registered Local Wildlife Site and a conservation survey carried out in 2000 describes it as a mixed woodland of Sycamore, Beech and Horse Chestnut with Nettles and Dog's Mercury. The woodland contains a rich diversity of ground flora and includes many indicator species which confirm its ancient origins. The application was not accompanied by an ecological report to assess the detailed impact of the scheme and there is no evidence the fence proposed around the building would protect the overall integrity of the site.
8. Whilst mentioning the idea, the original application did not include detailed proposals to offset ecological losses on site by establishing a replacement biodiversity site elsewhere. Whilst the appeal states that replacement tree planting would be provided on about 570 m<sup>2</sup> of Leyton Jubilee Park in London, a net gain of 25% in site area, the ecological benefits of this are unclear and it is in any event not possible to evolve a scheme during the appeal process. Such proposals should be assessed as part of a detailed ecological appraisal from the outset and considered by the Council in the first instance.
9. For these reasons the proposal fails to protect ecological interests and conflicts with EHDP Policy NE1. This requires an up to date ecological survey and resists proposals which are likely to have a detrimental impact on the integrity of a designated site unless material considerations outweigh the need to safeguard the site and adequate mitigation or compensatory measures are carried out.

### *Character and appearance*

10. The proposal would have the appearance and function of an agricultural building and be finished in traditional materials. The appellant argues that there is a similar building nearby at Rectory Farm and it would therefore not be out of place in the rural area. However, that building forms part of a traditional



farm complex whilst the proposed barn would appear, with the upgraded site access, area of hardstanding and fenced enclosure, as a discordant, relatively isolated feature in its woodland setting. Although generating minimal traffic flows and being dark and therefore unobtrusive at night, the proposal would cause significant harm to the character and appearance of the area in conflict with EHDP Policies DES2, DES3 and DES4. These require proposals to conserve the character of the landscape, to retain and protect existing landscape features of amenity and/or biodiversity value and to be of a high standard of design and layout to reflect and promote local distinctiveness.

#### *Sustainable location*

11. The proposal would be located at Meesden, a small hamlet in the countryside well away from main roads and regular public transport. As such, the proposal would rely on non-sustainable travel modes. In relation to EHDP Policy GBR2, dealing with rural areas beyond the Green Belt, the appeal proposal should be considered an agricultural building rather than an employment generating use as claimed by the Council. It would thus satisfy Policy GBR2 were it not for the requirement that it must be compatible with the character and appearance of the rural area, an issue dealt with above. The other policy in the Council's reasons for refusal, EHDP Policy ED2, is supportive of agricultural uses in rural areas and there would consequently be no conflict with that policy.

#### **Conclusion**

12. The proposal would have economic benefits for the area and provide some local employment in the agricultural sector. However, this would not outweigh the harm identified under the first three main issues and the conflict with the development plan when considered as a whole.
13. Having regard to the above the appeal should be dismissed.

*David Reed*

INSPECTOR



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# Appeal Decision

Site Visit made on 8 December 2020

**by Paul Thompson DipTRP MAUD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> December 2020**

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**Appeal Ref: APP/J1915/D/20/3257797**

**68 Gilders, Sawbridgeworth CM21 0EH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr D Davison against the decision of East Hertfordshire District Council.
  - The application Ref 3/20/0838/HH, dated 30 April 2020, was refused by notice dated 29 July 2020.
  - The development proposed is additions to roof and internal alterations to create a four bedroomed dwelling. Creating a new vehicular crossover to accommodate two cars.
- 

## Decision

1. The appeal is allowed and planning permission is granted for additions to roof and internal alterations to create a four bedroomed dwelling. Creating a new vehicular crossover to accommodate two cars at 68 Gilders, Sawbridgeworth CM21 0EH in accordance with the terms of the application, Ref 3/20/0838/HH, dated 30 April 2020, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: BRD/18/027/002-B and BRD/18/027/005-A.
  - 3) The external surfaces of the development hereby permitted shall be constructed in the materials specified on the planning application form and/or submitted drawings.

## Procedural Matters

2. Extensions and alterations to the appeal property were initially granted by way of a previously allowed appeal<sup>1</sup> and the Council subsequently granted an application for amendments to that scheme<sup>2</sup>. However, the appellant unsuccessfully applied to retain development that was not constructed in accordance with the approved scheme<sup>3</sup>. The application subject of this appeal relates to an alternative scheme to alter the development in situ.
3. In light of the above, parts of the proposal have already been granted planning permission. These include alterations to the height of parts of the roof and the external finish of the dwelling, the omission of rooflights and dormer windows, and the insertion of additional window openings and a Juliet balcony. I note

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<sup>1</sup> Appeal Ref: APP/J1915/D/18/3203275 in connection with planning application reference 3/18/0512/HH.

<sup>2</sup> Planning Reference: 3/19/0797/VAR.

<sup>3</sup> Planning Reference: 3/20/0231/HH.

that the Council's concerns do not lie with regard to those aspects of the proposal, instead they focus on the alterations to the part of the roof between the existing approved twin gables that would face the main section of Gilders. As it is those alterations that are at issue between the main parties, and with cognisance of the extant permissions, I will focus on that aspect of the proposal in my decision.

### **Main Issues**

4. The main issue is the effect of the proposed development on the character and appearance of the host property and the street scene.

### **Reasons**

5. The appeal concerns a detached chalet-style bungalow situated at the junction of a cul-de-sac and main section of Gilders. The properties in the surrounding area are characterised by bungalows, chalet bungalows or two storey houses of varying designs. There is no consistency to the overall appearance and layout of the bungalows, primarily as a result of alterations and extensions, but roof have greater uniformity, with gables utilised throughout the surrounding area.
6. The alterations and extensions undertaken to the property have resulted in a significant amount of change to the dwelling. However, I am mindful that the flat roof currently in situ could be removed and the approved twin gables formed with a valley between, outside the scope of this appeal.
7. Policy HOU11 of the Council's Local Plan<sup>4</sup> is the policy relevant to extensions and alterations to dwellings and requires that they are designed in a manner appropriate to the character, appearance and setting of the existing dwelling and/or the surrounding area. The policy does therefore not appear to require proposals to be considered in relation to the original dwelling, except in relation to flat roofed extensions. Given the amount of change already undertaken and that could be undertaken with the approved scheme, were development to be completed in accordance with the approved scheme that would constitute the 'existing dwelling'.
8. The proposal would not incorporate a conventional flat roof, as the roof slope between the twin gables would give rise to a form of crown roof. While this would evidently be in contrast to the simpler form of gables found on existing dwelling and nearby, it would appear as a subservient addition to its roof. Moreover, the principal gable-ended roof of the dwelling would be visible behind and the twin gables would be separated, so they would still create visual interest in the street scene.
9. I am also mindful of the much larger flat-topped roof to the rear extension of No 66. While I am not aware of the circumstances that led to that extension and it is less prominent than the appeal proposal, it adds to the particular context and suitability of the proposal.
10. In light of the above, I conclude that the proposed development would not have a harmful effect on the character and appearance of the host property and the street scene. Hence, the proposal would accord with the design aims of Policies DES4 and HOU11 of the Council's Local Plan.

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<sup>4</sup> East Herts District Plan (Adopted October 2018).

**Conditions**

11. In addition to the standard time limit for the appeal, in the interests of clarity and the appearance of the existing house, I have specified the approved plans and that the materials of construction of the proposal should be in accordance with the materials listed in the application.

**Conclusion**

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

*Paul Thompson*

INSPECTOR



## Appeal Decision

Site visit made on 9 November 2020

**by E Brownless BA (Hons) Solicitor (non-practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: Monday, 07 December 2020**

**Appeal Ref: APP/J1915/W/20/3248495**

**Glebe Land, Acorn Street, Hunsdon, Herts SG12 8PA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Hunsdon Parochial Church Council against the decision of East Hertfordshire District Council.
- The application Ref: X/19/0362/CND, dated 6 August 2019, sought approval of details pursuant to condition No 3 of a planning permission Ref: 3/12/1440/FP, granted on 4 December 2012.
- The application was refused by notice dated 23 December 2019.
- The development proposed is New Chapel/community facility including parking.
- The details for which approval is sought are: external materials (Condition3).

### Decision

1. The appeal is allowed and I approve the details of the roof materials submitted pursuant to Condition 3, attached to planning permission Ref: 3/12/1440/FP, granted on 4 December 2012; in accordance with the application Ref: X/19/0362/CND, dated 6 August 2019.

### Procedural Matter

2. A previous application<sup>1</sup> to discharge a number of conditions on the planning permission, including Condition 3, was approved by the Council. Among other things, this included the use of natural slate tiles in the construction of the roof. This appeal seeks to vary the approved roof covering from natural slate tile to a fibre cement roof tile, namely Eternit Garsdale Fibre Cement Slate. In effect, the appeal is seeking approval for the submitted details relating to the roof material.

### Main Issue

3. The main issue is the effect of the proposed material on the character and appearance of the surrounding area with particular regard to the setting of the Conservation Area.

### Reasons

4. Planning Permission<sup>2</sup> was granted by the Council on the 4 December 2012, for the development of a new chapel/community facility on the appeal site. The permission was subject to a number of conditions. Condition 3 required the submission of samples of the external materials to be used in the construction

<sup>1</sup> Planning Reference: X/15/0282/CND

<sup>2</sup> Planning Ref: 3/12/1440/FP

of the building, prior to any building work being commenced. The reason for imposing the condition was stated to be *'in the interests of the appearance of the development and in accordance with Policy ENV1 of the East Herts Local Plan Second Review (2007)*.

5. The appeal site is a roughly rectangular parcel of land located towards the northern corner of the existing recreational grounds. To its front, mature hedgerow separates the appeal site from the highway and its northern boundary sits adjacent to existing dwellings. The southern and rear boundaries are presently open to the recreational grounds. Beyond these, the area is predominantly bounded by residential development.
6. The appeal site sits outside of the defined boundary for the Hunsdon Conservation Area (CA), albeit it is positioned immediately adjacent to it. The special character of Hunsdon is derived from its architectural and historic identity. In particular, the high quality and tightly knit groupings of listed buildings on the High Street contribute a visually rich character that appears clearly defined and visually separate from the modern developments that surround it.
7. Built form surrounding the appeal site is generally varied and modern, being 20<sup>th</sup> century development. Roof structures typically consist of plain tiles. By reason of the proposed public use of the appeal building together with the significant height of the roof structure, the appeal scheme would be highly visible from the public realm and neighbouring dwellings and their gardens.
8. I accept that a mass-produced cement tile will lack the individual subtle qualities of a naturally occurring product. However, there are similarities between the approved natural slate and the proposed Eternit Garsdale Fibre Cement slate. In particular, the proposed roof material features a detailed surface, a square edge and a similar colour. Accordingly, whilst I consider that a scheme inclusive of natural slate roof tiles would have been desirable, I find that overall, the use of Eternit Garsdale Fibre Cement Slate roof tiles would be an appropriate material in the construction of the new chapel/community facility. The proposed roof material would not appear inappropriate to the appeal building, and moreover, it would preserve the setting of the CA. Thus, the proposal would accord with LP Policy ENV1 insofar as it requires development to be of a high-quality design that reflects local distinctiveness.

### **Other Matters**

9. Reference has been made by the Council to steps they undertook during consideration of the application, advice given by a duty officer and a site visit. However, these are not matters that I have needed to assess in the determination of this appeal.

### **Conclusion**

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

*E Brownless*

INSPECTOR



## Appeal Decision

Site visit made on 9 November 2020

**by E Brownless BA (Hons) Solicitor (non-practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: Monday, 07 December 2020**

**Appeal Ref: APP/J1915/W/20/3249662**

**The Old Orchard, Abbots Lane, Widford, Ware, Hertfordshire**

- 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 Simon Thake against the decision of East Hertfordshire District Council.
- The application Ref: 3/19/1902/FUL, dated 4 September 2019, was refused by notice dated 12 November 2019.
- The development proposed is demolition of existing store and erection of 1no. detached dwelling.

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:-
  - i) whether the proposal would preserve or enhance the character or appearance of the Widford Conservation Area; and
  - ii) whether the appeal site is a suitable location for a new dwelling having regard to the development plan strategy.

### Reasons

#### *Character and appearance of the Widford Conservation Area*

3. The appeal site lies outside of the defined settlement boundary for the village of Widford and is therefore designated as Rural Area Beyond the Green Belt. It is located within the Widford Conservation Area (CA) in a predominantly rural landscape area that is characterised with a fragmented pattern of pasture land scattered with sports facilities, public footpaths and bordered by mature trees. Abbots Lane is a quiet rural lane bounded by agricultural lands and where built form is infrequent and dispersed. The surrounding character is one of a quiet, spacious and open rural setting.
4. The appeal site comprises a large, irregular shaped and broadly flat parcel of land bordered by mature vegetation. Presently, the majority of the appeal site is open and undeveloped. However, it contains a modest sized single storey timber boarded building with pitched tiled roof located towards the rear of the appeal site together with a number of storage containers and piles of materials. Notwithstanding its untidy appearance, it nonetheless shares some of the common characteristics of the CA and makes a moderate contribution to its significance.



5. I am mindful that the proposed development has been reduced in size and its position altered in an attempt to overcome the reasons for refusal of a previous application<sup>1</sup> and appeal decision<sup>2</sup>. Nonetheless, it would introduce a sizeable detached dwelling which, despite it being single storey, would include a width of some 7.7 metres and a height to the ridge of approximately 5.6 metres, taking the council's measurements, which have not been disputed by the appellant.
6. Albeit the existing building would be demolished, the appeal proposal would include a larger footprint and the inclusion of several windows and doors would lead to a significantly more domestic appearance than the existing barn-style building. This would not be offset to any significant degree as a result of locating the proposed dwelling towards the rear of the appeal site nor the use of materials that would be sympathetic to its rural location.
7. Taken together with the proposed extensive driveway and paths and the likely accumulation of domestic accoutrements such as garden furniture, bins and washing lines, this would contribute visual clutter. As a result, the physical manifestations of the proposal would inevitably lead to a significant urbanisation of this area of land and erode the open, spacious and rural character of the area.
8. Albeit the appeal site is reasonably well-contained to its sides and rear by mature trees, vegetation and a sports pavilion, the appeal proposal would remain partially visible in views through or over vegetation from the adjacent cricket ground, public footpath, recreation ground and other open land, particularly during the winter months when foliage is less dense. Moreover, vegetation along the front boundary is lower and less substantial. Taken together with the opening for the vehicular access, which is to be retained, the appeal proposal would also be readily visible in some views from the highway and the agricultural land that lies beyond it. Any additional planting would take time to mature and would be unlikely, for the reasons expressed above, to ameliorate the effect of the proposal. To my mind, the proposal would be seen as an unwelcome intrusion or a harmful encroachment into the countryside.
9. Policy VILL2 of the East Herts District Plan (2018)(DP) seeks, among other things, to prevent development that would result in a ribbon pattern of development. However, in my view, given the general absence of built form along this side of Abbots Lane, the building of one dwelling would not result in a continuous row of built form adjacent to the highway. Nevertheless, the proposal would detract from the openness of the countryside and by reason of its position outside of the defined settlement boundary it would fail to amount to limited infill development. These matters would conflict with the requirements of DP Policy VILL2.
10. I therefore conclude that the proposal would fail to preserve or enhance the character or appearance of the Widford Conservation Area. This would cause less than substantial harm to the significance of the heritage asset, although it would nonetheless be significant. In these circumstances, the National Planning Policy Framework (the Framework) requires consideration of the harm to be weighed against the public benefits of the proposal.

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<sup>1</sup> Planning Ref: 3/18/1027/FUL

<sup>2</sup> Appeal decision: APP/J1915/W/18/3213222



11. The Framework promotes housing development in rural areas where it will enhance or maintain the vitality of rural communities. The proposal would provide an additional dwelling and the future occupants would be likely to use and contribute spending towards local services and facilities. This would therefore contribute to the vitality and vibrancy of Widford. However, the Government's objective is to significantly boost the supply of housing and I find that one dwelling would make only a small contribution in this respect. The social and economic benefits associated with the provision of a single dwelling would be modest. Economic benefits generated during the construction phase would be temporary. The removal of unsightly elements from the appeal site would be advantageous to the appearance of the CA. Overall, the environmental harm to the heritage asset is of such a magnitude that it would not be outweighed by the limited public benefits of the proposal.
12. Accordingly, the proposal would fail to preserve or enhance the character and appearance of the Widford Conservation Area. Thus, the proposal would conflict with DP Policies VILL2, GBR2, DES4 and HA4. Among other things, these policies require high quality development to preserve or enhance the special interest, character and appearance of the conservation area. It would also conflict with the provisions of the Framework insofar as heritage assets are identified as an irreplaceable resource that should be conserved in a manner appropriate to their significance.

*Development plan strategy for new housing*

13. DP Policy DPS2 sets out the hierarchy of sustainable development and is permissive of limited development within villages. Widford is identified as a Group 2 Village, however, the appeal site is not situated within the defined settlement boundary of the village. For the purposes of applying planning policy it is located within the countryside.
14. DP Policy GBR2 of the is permissive of certain types of development within the rural area, including instances of infilling and partial or complete redevelopment of previously developed sites. However, such instances are subject to a number of criteria. In particular, development must be appropriate to the character, appearance or setting of the site and/or surrounding area.
15. For the reasons given above, I have concluded that the proposed development would fail to preserve or enhance the character or appearance of the Widford Conservation Area. As such, the proposal would not be appropriate to the character, appearance and setting of the site and its surrounding area.
16. Therefore, the proposal would fail to accord with DP Policies DPS2 and GBR2 insofar as these policies seek to maintain the Rural Area Beyond the Green Belt where new development will be compatible with the character and appearance of the rural area. In addition, it would conflict with the provisions of the Framework which seeks, among other things, to achieve well-designed places where development is sympathetic to local character including the surrounding landscape setting.

**Other Matters**

17. The parties dispute whether the appeal site amounts to previously developed land (PDL). I have had regard to the appellant's certificate of lawfulness, for storage of horticultural materials and associated goods (Use Class B8) dated

7 March 2017 and thus I find that the appeal site would amount to PDL. Even so, the proposal would fail to satisfy the criteria of DP Policy GBR2 and thus my findings in relation to character and appearance of the Widford Conservation Area and the settlement strategy would be unaltered and the outcome of the appeal would remain the same.

18. With regard to the accessibility of the appeal site to local services and facilities, there is limited information before me concerning these. However, I note the findings of the Inspector in a previous appeal decision<sup>3</sup> at the site, namely that the site had reasonable access to services and facilities for a rural area, despite the occupants of the proposed dwelling being likely to use a private motor vehicle for longer trips to access higher order services and employment. It has not been put to me that there has been any change regarding the availability of local services and facilities. In addition, it is not part of the Council's case that there is a policy conflict on this basis. However, any modest environmental benefit accruing from a sustainable location does not outweigh the significant harm I have identified above.
19. The Council have determined that there would be no adverse impact upon the setting of a number of listed buildings given the distances involved and the screening afforded by vegetation. However, as the appeal is failing for other reasons, I have not had to consider this matter any further.
20. It is the appellant's case that there would be no adverse impact on the living conditions of neighbouring residents, highways or parking, ecology or loss of land in a commercial use. The absence of harm is a neutral matter that weighs neither for nor against a proposal.
21. The proposed scheme would include measures to achieve energy efficiency, reduce water usage, aid recycling and reduce the carbon footprint of the dwelling. Albeit these matters weigh in favour of the proposal, they are insufficient to overcome the harm identified above.

## **Conclusion**

22. Accordingly, for the reasons given above, the appeal is dismissed.

*E Brownless*

INSPECTOR

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<sup>3</sup> Appeal decision: APP/J1915/W/18/3213222



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## Appeal Decisions

Site visit made on 24 November 2020

**by Stephen Hawkins MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 December 2020**

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### **Appeal A Ref: APP/J1915/C/20/3252651**

#### **24 Hadham Road, Bishops Stortford, Hertfordshire CM23 2QS**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Manjur Choudhury of Zara Indian Dining against an enforcement notice issued by East Hertfordshire District Council.
- The enforcement notice was issued on 14 April 2020.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a single storey side extension which comprises a raised terrace area and open sided structure which is set beneath a shallow pitched roof.
- The requirements of the notice are to remove the unauthorised single storey side extension which comprises of a raised terrace area and open sided structure which is set beneath a shallow pitched roof, with the removal of any associated waste/material resulting from the above.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is dismissed and the enforcement notice upheld.**

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### **Appeal B Ref: APP/J1915/W/20/3248716**

#### **24 Hadham Road, Bishops Stortford, Hertfordshire CM23 2QS**

- 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 Manjur Choudhury of Zara Indian Dining against the decision of East Hertfordshire District Council.
- The application Ref 3/19/2405/FUL, dated 26 November 2019, was refused by notice dated 22 January 2020.
- The development proposed is described on the application form as "*retrospective application for a staff/customer's smoking area with shallow pitched roof and open sides*".

**Summary of Decision: The appeal is dismissed.**

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### **Appeal A, Ground (a) and Appeal B**

#### **Main Issue**

1. The main issue in these appeals is whether the single storey side extension preserves the character or appearance of the Bishops Stortford Conservation Area (CA).

## Reasons

### *Whether the character or appearance of the CA is preserved*

2. The appeal site contains a former public house, now used as a restaurant. The building is of traditional character, probably originating in the 19<sup>th</sup> Century. The building has a two storey core with single storey wings and there is an outbuilding at the rear. The building occupies a prominent location, adjacent to the junction of a main road and a local street. There is a parking courtyard alongside, which is enclosed by varying built forms of traditional origin. The building and adjoining built forms, together with the large villas and trees along the main road referenced in the Conservation Area Appraisal (CAA), are all clear evidence of the outward expansion of the town from the 19<sup>th</sup> Century onwards. For the above reasons, although I am not aware that the building is specifically referred to in the CAA, it nevertheless makes a significant contribution to the character and appearance of the CA.
3. The single storey side extension adjoins a pre-existing single storey wing at the side of the building. It covers a customer seating area adjacent to the parking courtyard. The extension is set back slightly from the front elevation of the building. The extension has low walls formed of horizontal timber planking, above which the sides are largely left open. Timber trellises are attached to the upper sides, below the eaves level. There are trailing plants in planters in the top of the walls and on the trellises. Several timber uprights support a dual pitched roof. The roof gable on the end elevation is clad in timber. All the timber is painted a dark grey colour, whilst the roof is covered with light green colour felt with a tile effect pattern.
4. The extension is open to views from the main road, where it is seen in conjunction with the front and side elevations of the building. Notwithstanding the largely open sides, the extension is not perceived as a lightweight structure. The dimensions of the extension are not dissimilar to those of the adjacent wing of the building. The cumulative effect of the solid timber walls, uprights, trellises and the roof structure mean that the extension has an appreciable sense of robustness and permanence. The planting has had a limited effect in terms of breaking up the bulk of the extension. It follows that although the extension is of modest proportions compared to the overall size of the building and other development in the vicinity, it is nevertheless perceived as a built feature of significant scale.
5. The pitch of the extension roof is at a considerably shallower angle compared to the roof profile of the adjacent wing and that of other parts of the building. Steeper roof profiles are a part of the building's inherent character. The different roof profile of the extension is readily apparent from the main road, creating a sense of conflict with the building and also giving the extension a rather squat appearance. Furthermore, the extension has a noticeably higher eaves line than the adjacent wing. The failure to respect the eaves line of the wing accentuates the sense of visual disruption in relation to the building. As steeper roof profiles similar to the building are to be found on many of the built forms in the locality, the extension also does not relate well to surrounding development.
6. The timber on the external walls of the extension is distinctly different in terms of its finished appearance and profile to the traditional rendered finish of the walls of the building and is also likely to have different weathering qualities.

Further, on account of their flat profile the timber walls are not of sufficiently similar appearance to the overlapping timber weatherboarding walls of the rear outbuilding and an adjoining building. In addition, the use of light green felt on the extension roof does not pay sufficient regard to the darker, more neutral colour and textured profile of the slate covering on the building's roof, or the colour and profile of clay tiles covering the rear outbuilding roof. Neither are the extension wall and roof finishes similar to those of other buildings in the locality. Consequently, the external materials and finishes of the extension fail to respect those of the building and surrounding development.

7. Due to all the above factors, the extension is entirely at odds with the traditional character, form and materials of the building and those of surrounding development, it is awkwardly related to and does not integrate satisfactorily with the building and its surroundings, appearing as an alien feature in the street scene. Accordingly, the extension fails to preserve the character or appearance of the CA.
8. Therefore, the extension fails to accord with Policy DES4 of the East Herts District Plan (LP), not being of a high standard of design that respects the character of the site and the surrounding area in terms of its mass, siting and building materials. Also, the extension does not accord with LP Policy HA1, as the historic environment is not preserved. Furthermore, the extension fails to accord with LP Policy HA4, as it does not use materials and adopt design details that are traditional to the area, its scale, proportions, design and overall character do not complement the surrounding area and it is not complementary and sympathetic to the building; therefore the special interest and character and appearance of the area is not preserved. There is also conflict with Policy HDP2 of the Bishops Stortford Neighbourhood Plan for Silverleys and Meads, this document being referred to in the Council's statement. This is because the extension is not of high quality, does not empathise with its setting and does not have materials in keeping with and complementing the existing character. Additionally, the failure to conserve the historic environment is inconsistent with the National Planning Policy Framework (the Framework) at section 16.

#### *Planning Balance*

9. The harm to the significance of the CA caused by the extension is 'less than substantial' as meant by the Framework paragraph 196. Therefore, it is necessary to weigh that harm against any public benefits. Activity associated with the customer seating might well contribute to an active frontage. I am also mindful of recent legislative changes designed to encourage outdoor customer seating at restaurants, to help sustain businesses and their associated employment during the COVID-19 pandemic. However, there is no firm evidence that outdoor customer seating would not continue to be provided at the site. Therefore, any benefit offered by the extension in the above respects can only be afforded limited weight. Although the extension has not physically affected features described in the CAA, referred to above, that does not equate to a benefit. I understand that the extension is a covered facility for staff and customers to smoke. Even so, there is no obligation to make such provision and I regard this as a private benefit. Accordingly, any public benefits do not outweigh the harm to the significance of the CA.

### *Conclusion on Appeal A, Ground (a) and Appeal B*

10. The extension does not preserve the character or appearance of the CA and it fails to accord with the Development Plan. The harm to the significance of the CA is not outweighed by any public benefits. Therefore, I conclude that the appeal on ground (a) in Appeal A together with Appeal B should not succeed.

### **Ground (g) appeal**

11. The ground of appeal is that the period for complying with the notice requirements is unreasonably short.
12. In my view, six months affords ample time to find and appoint a contractor to carry out the required remedial works, even when regard is had to the circumstances arising from the COVID-19 pandemic. There was no firm evidence to suggest that appointing a suitable contractor and arranging for them to undertake the works would be a particularly lengthy process. As the extension is mostly made up of prefabricated materials, its removal is likely to be a relatively small-scale operation, largely undertaken by hand. It is therefore likely to be a reasonably straightforward matter for a contractor to complete such works comfortably within a few weeks at most. Although I appreciate that the extended closure of the restaurant during the pandemic is likely to have severely affected the appellant's finances, such works are unlikely to be particularly costly. Six months also provides ample time for the appellant to seek and secure any necessary finance. The compliance period therefore allows for contingencies or other uncertainty caused by the pandemic. As a result, extending the compliance period to twelve months would perpetuate the breach and the associated planning harm.
13. Therefore, the ground (g) appeal also fails.

### **Conclusion**

14. For the reasons given above I conclude that Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application. For similar reasons I conclude that Appeal B should be dismissed.

### **Formal Decisions**

15. Appeal A-the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
16. Appeal B-the appeal is dismissed.

*Stephen Hawkins*

INSPECTOR

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## Appeal Decision

Site visit made on 24 November 2020

**by Benjamin Clarke BA (Hons.) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Thursday, 17 December 2020**

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**Appeal Ref: APP/J1915/D/20/3248315**

**Bracken Hill, Queen Hoo Lane, Tewin AL6 0LT**

- 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. James against the decision of East Hertfordshire District Council.
  - The application Ref: 3/19/2498/HH, dated 6 December 2019, was refused by notice dated 3 February 2020.
  - The development proposed is a second storey extension above an existing single-storey structure
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - whether the proposal is inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and development plan policy
  - The effect of the development upon the openness of the Green Belt; and
  - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

### Reasons

*Whether inappropriate development*

3. The appeal site consists of a dwelling that has been the subject of previous extensions and is located within the Metropolitan Green Belt.
4. I have been directed towards Policy GBR1 of the East Hertfordshire District Plan (2018) (the District Plan). This policy requires that developments be considered in line with the requirements of the Framework.
5. Paragraph 145 of the Framework identifies the erection of new buildings within the Green Belt as being inappropriate. There are some exceptions to this, which include the erection of a proportionate extension of an existing building.



6. In this case, the original dwelling, as illustrated on the submitted plans, consisted of a broadly rectangular shape, with a projection to the rear. The dwelling has subsequently been extended through the provision of various extensions at the sides of the building and to its rear. The dwelling also features a canopy on one side and a front porch.
7. The proposed extension, whilst not projecting beyond the footprint of the existing dwelling, in its current rather than original form, would increase the size and massing of the building due to the creation of an additional storey at first-floor level.
8. The proposed development would project beyond the rear elevation of the original dwelling. This extension would be viewed alongside an existing rear extension. In consequence, the multiple projections into the rear garden arising from these extensions, through their size, would erode the original proportions of the dwelling.
9. Furthermore, the front elevation of the proposed extension would be constructed so as to finish flush with the front elevation of the original dwelling. As the proposed extension would be constructed above an existing addition to the house, the proposed development would result in a larger building.
10. Given that the proposed extension would result in the formation of a bulkier dwelling, it would be disproportionate as the existing side extension would be significantly increased in height from a single storey to being of two storeys. In conjunction with the additional existing extensions on the opposite side of the building, this would result in a notably longer dwelling than the original.
11. I have been directed towards a range of figures regarding the percentage increase in the size of the building. However, even if I were to agree with the lower figure, the proposed extension would still represent a significant increase in the size, mass and volume of the building in conjunction with other existing extensions. This means that the proposed development would be a disproportionate addition to the building.
12. In addition, the Framework references that, in assessing such proposals, the judgement that should be made as to whether an extension is disproportionate is an objective one. For the preceding reasons, I have found that the cumulative effects of the proposed and existing extensions would be a disproportionate addition to the dwelling.
13. There is some landscaping present within the appeal site and the surrounding area. However, the Framework is clear that extensions to dwellings within the Green Belt should be constructed from proportions that are consistent with the original dwelling. In result, given that I have found that the proposed development would be a disproportionate addition, the presence of landscaping would not alleviate this matter.
14. My attention has been drawn to several other dwellings in the surrounding area that have been extended. However, houses within the vicinity of the appeal site are constructed to different designs and proportions. In consequence, whether a specific extension is disproportionate would depend on its individual design and siting. In result, the presence of developments elsewhere does not allow me to forego my previous concerns.



15. I therefore conclude that the proposed development would fail to comply with the requirements of District Plan Policy GBR1 and the Framework owing to the inappropriate form of development.

*Effect on openness*

16. The appeal site is within the Green Belt and in result the appeal site, and the surrounding area benefits from an intrinsic level of openness.
17. By reason of the pattern of development in the vicinity, the extension would be visible, in parts, from the adjacent road. This would be exacerbated by the relatively flat nature of the front garden of the site meaning that the increase in built form would be readily apparent. Whilst some landscaping is present at the appeal site, this would not screen the extension from all vantage points, such as the site's driveway. In result the proposed development would lead to an erosion of the physical character of openness that is a feature of the locality.
18. The proposed development would increase the size and massing of the dwelling. In addition, the original dwelling would have featured larger amounts of space between the side elevations and side boundaries. This would have allowed for the retention of a more open, less developed character that is commensurate with the site's surroundings.
19. In result, the proposed development would create an adverse effect upon the spatial sense of openness that is an intrinsic feature of the Green Belt. This is particularly notable as the proposed extension would be of a height consistent with the original dwelling and, in conjunction with other extensions, would result in a dwelling with a more bulky character
20. I therefore conclude that the proposed development would have an adverse effect upon the openness of the Green Belt. Within this regard, the development would conflict with District Plan Policy GBR1 and the Framework. Amongst other matters, these seek to ensure the retention of an open character within the Green Belt.

*Other considerations*

21. The development would deliver a dwelling that might accommodate a larger household in a modernised building. However, the benefits of this are limited due to the nature of the development. Furthermore, any benefits to the local economy would also be relatively small owing to the quantum of development and would also be relatively localised in impact. Accordingly, I can only give each of these matters a limited amount of weight.
22. My attention has been drawn to potential alternative extensions that could be constructed at the property. Whilst I understand that these might result in a greater level of floor space being added to the building, a number of these extensions would be at ground floor level only. In consequence, the side elevations of the original dwelling would remain readily perceptible, particularly at first floor level. Accordingly, these would not be the equivalent of the disproportionate extension before me.
23. Whilst an alternative extension might result in an increase in the height of the dwelling, a development of the type illustrated would be the subject of a prior approval process. The evidence before me is not indicative of such prior

approval being sought, or indeed granted. In consequence, I do not have certainty that in the event of this appeal being dismissed, there is a realistic prospect of the alternative proposal being implemented.

24. For these reasons, I am therefore unable to give the presence of potential alternative developments a significant amount of weight in my considerations.

### **Other Matter**

25. I acknowledge concerns raised by the appellant regarding the provision of pre-application advice by the Council. However, in considering this appeal, I have limited my considerations to the planning matters before me.

### **Planning Balance and Conclusion**

26. 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 this harm. Very special circumstances will not exist unless the harm to the Green Belt is clearly outweighed by other considerations.
27. As explained above, I give only limited weight to each of the considerations cited in support of the proposal and accordingly I do not find that these amount to the special circumstances necessary to justify the development.
28. In consequence, and for the preceding reasons, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR

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## Appeal Decision

Site visit made on 10 November 2020

**by Benjamin Clarke BA (Hons.) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Thursday, 17 December 2020**

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**Appeal Ref: APP/J1915/W/20/3252551**

**Unit 1 and 2, Monks Green Farm, Mangrove Lane, Hertford, Hertfordshire SG13 8QL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr William Ashley (William Ashley and Partners) against East Hertfordshire District Council.
  - The application Ref: 3/20/0422/FUL, is dated 25 February 2020.
  - The development proposed is a barn conversion to create two dwellings, creation of first floor insertion of windows and doors to all elevations and four roof lights.
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### Decision

1. The appeal is allowed, and planning permission is granted for a barn conversion to create two dwellings, creation of first floor insertion of windows and doors to all elevations and four roof lights at Unit 1 and 2, Monks Green Farm, Mangrove Lane, Hertford, Hertfordshire SG13 8QL in accordance with the terms of the application, Ref: 3/20/0422/FUL, dated 25 February 2020, and the plans submitted with it, subject to the attached schedule of conditions.

### Application for costs

2. An application for costs was made by Mr William Ashley (William Ashley and Partners) against East Hertfordshire District Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The proposed development is described on the planning application form as 'improvements/alterations', however, on the appeal form it is described as a 'barn conversion to create two dwellings, creation of first floor insertion of windows and doors to all elevations and four roof lights'. I have proceeded based on the description on the appeal form in the interests of precision.
4. The Council's Statement of Case was received after the initial deadline. However, given the importance of this document, I have considered it as part of my assessment. Furthermore, as the appellant has had the opportunity to comment, I am satisfied that no party has been prejudiced by this decision. I have therefore proceeded on this basis.

## Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt and the effect on openness; and
- the suitability of the site as a location for a residential development.

## Reasons

### *Whether inappropriate development and effect on openness*

6. The site is located within the Green Belt. The National Planning Policy Framework (the Framework) regards the erection of new buildings within the Green Belt as being inappropriate. However, the proposed development is for the conversion of an existing building, rather than a new one. Instead the physical changes amount to amendments to the elevations of the building and internal alterations involving the insertion of a mezzanine floor.
7. These new works amount to changes to the existing structure, rather than the erection of a completely new building. In consequence, the provisions of Paragraph 145 of the Framework do not apply in this specific instance.
8. Paragraph 146 of the Framework states that certain other forms of development are also not inappropriate in the Green Belt. These include the re-use of buildings that are permanent and of substantial construction. It would appear that the building that is the subject of this appeal has been in-situ for a significant period of time. Furthermore, on my site visit, I observed that the building had been constructed from blockwork, in addition to metal cladding. In consequence, the building meets the provisions of being of permanent and substantial construction.
9. For a development to be regarded as not inappropriate for the purposes of Paragraph 146 of the Framework, the development should preserve the openness of the Green Belt and not conflict with the purposes of including land within it.
10. In this instance, the proposed development, as a building conversion, would not add to the growth of large built up areas. In addition, as the appeal site is not within, or adjacent, to a settlement. Therefore, the proposed development would not result in neighbouring towns merging together or further encroachment into the countryside. The evidence before me is not indicative of the development effecting the setting or character of historic towns or would conflict with urban regeneration. In consequence, the development would not conflict with the purposes of including land within the Green Belt.
11. In respect of openness, the development before me would not result in a larger building than is currently present on the site. In addition, the proposed building would be located alongside a mixture of other buildings, including others of a similar construction. These include some buildings that have been converted to dwellings and others that are in use for commercial purposes. In result, the proposed development would be viewed as part of a cluster of buildings. These buildings would also provide some screening of the proposed building. The appeal site is also near to a some bunding, which would also lessen the prominence of the development upon the surrounding area.

12. There is likely to be some vehicle movements associated with the development. However, given the existing use of the building and its proximity to various other buildings, the presence of cars and other vehicles would not appear to be particularly unusual. In consequence, these would not lead to a detrimental effect upon the level of openness within the surrounding area.
13. I note that as a domestic dwelling, there is a likelihood that residents of the proposed dwellings might require some domestic paraphernalia (such as garden structures) outside of the buildings. However, any such paraphernalia is likely to be relatively small in scale by reason of the plot sizes of the development. It would be further screened by the surrounding buildings. In consequence, I do not believe that the proposed development would erode the spatial and physical sense of openness that is a feature of the Green Belt.
14. In considering this appeal, I have been directed towards Policy GBR1 of the East Hertfordshire District Plan (2018) (the District Plan). Amongst other matters, this policy seeks to ensure that planning proposals within the Green Belt are assessed against the requirements of the Framework. For the preceding reasons, I have concluded that Paragraph 145 of the Framework is not applicable to the specific development before me and the proposal complies with the requirements of Paragraph 146. Accordingly, the objectives of this policy have been complied with, although I note that this policy has not been suggested in the Council's putative reason for the refusal of planning permission.
15. I therefore conclude that the proposed development does not represent an inappropriate development within the Green Belt and would not have an adverse effect on openness. It would therefore be in conformity with the requirements of Policy GBR1 of the District Plan and the Framework.

*Suitability of the site*

16. The appeal site consists of a barn that is surrounded by other buildings. Many of these have been converted to residential accommodation or business uses. Other dwellings are nearby.
17. My attention has been drawn to Policy DPS2 of the District Plan. Amongst other matters, this states that new development should be delivered in a hierarchy of settlements, in order to ensure sustainability. Whilst the proposed development would be located amongst other buildings, their form and function would mean that the immediate surroundings could not be appropriately described as a village.
18. Furthermore, whilst the proposed development would be near to other dwellings, the nature of their use is such that residents would need to travel to other settlements in order to access the services and facilities that they are likely to require on a day-to-day basis. residents would not have immediate access to public transport and the nature of the surrounding road and footpath network may deter some residents of the proposal from undertaking journeys by means of methods such as walking and cycling.
19. In consequence, the development would lead to a conflict with Policy DPS2. It is therefore incumbent upon me to assess whether any harm would arise from this breach.

20. In this instance, a prior approval has previously been granted to convert the building into two dwellings. Although some details are still to be agreed due to the imposition of conditions, I note that there is still some time before this permission would expire. In addition, owing to the time period before the permitted works are required to be completed, there does not appear to be a reason as to why this permission is incapable of taking effect. Accordingly, this permission should be given weight in my assessment.
21. Whilst the appeal scheme would result in bigger dwellings than the extant scheme as they would have a mezzanine floor and an additional bedroom, the extant scheme as a two-bedroom dwelling has the potential to accommodate a family. In consequence, the proposed development is unlikely to result in a greater number of trips on the surrounding road and path network than the extant scheme.
22. In result, the potential increase in the number of journeys being made by private cars is unlikely to be significantly greater and as such, the proposed development, is unlikely to result in a reduction in the overall level of sustainability.
23. Proposals should be assessed against the requirements of the Development Plan unless material considerations indicate otherwise. In this instance, whilst the proposal would not be compliant with Policy DPS2, the harm arising from the scheme before me would not be significant owing to the presence of an extant scheme at the site.
24. The evidence before me is also not indicative of the proposed development having any other adverse effects; including on the highway system, highway safety, flood risk and the living conditions of the occupiers of the surrounding properties. In addition, the evidence is indicative that occupiers of the development would experience appropriate living conditions.
25. Accordingly, with reference to the Framework, which states that planning decisions are to be considered in accordance with the Development Plan unless material considerations indicate otherwise, I conclude that the proposed development would be within a suitable location.

### **Conditions**

26. I have had regard to the conditions as suggested by the Council. In addition to the standard implementation condition, a condition specifying the approved plans is necessary in the interests of precision.
27. Given the location of the site, I conclude that details of boundary treatments to be agreed by the Council is necessary in order to maintain the character of the surrounding area. For similar reasons, a condition requiring the agreement of external facing materials is appropriate. However, given the nature of the proposed development, I have amended this condition to require these details to be agreed prior to the commencement of development.
28. Given the proximity of the appeal site to other dwellings, a condition limiting the hours in which building works can take place is necessary. Furthermore, owing to the proximity of the appeal site to commercial properties, a condition requiring the agreement and installation of noise mitigation measures is necessary and reasonable in order to ensure appropriate living conditions for the future occupiers. In order to provide appropriate living conditions, it is

appropriate that a condition secures the provision and retention of refuse storage.

29. I have noted the Council's suggested condition that existing trees and hedges are retained. However, the evidence before me indicates that these are not the subject to any form of statutory protection, as such I do not believe such a condition to be reasonable. However, in order to ensure that the development respects its surroundings, conditions requiring the agreement, and implementation, of a landscaping scheme are appropriate.
30. In order to ensure that the development does not have an adverse effect on the highway system, conditions requiring that the parking areas are appropriately surfaced and retained for that purpose, in addition to the provision of cycle storage are appropriate.
31. The Council have requested a condition requiring that the details of any external lighting are agreed. Such a condition would be necessary given the rural setting of the development, however, in the interests of precision I have amended this condition.

### **Conclusion**

32. For the preceding reasons, I conclude that the appeal should be allowed, and planning permission granted subject to conditions.

*Benjamin Clarke*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Block Plan; MGF001; MGF002; and MGF003.
- 3) Prior to the first occupation of any dwellings hereby approved, means of enclosure shall be erected in accordance with the details of all boundary walls, fences or other means of enclosure having been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and shall be retained thereafter.
- 4) No development shall take place until details of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
- 5) Prior to first occupation of the development hereby approved, facilities the storage and removal of refuse from the site shall be provided, in accordance with details having been submitted to and approved in writing by the Local Planning Authority. The facilities shall be provided prior to the first occupation of the development and thereafter retained.



- 6) Prior to first occupation of the development hereby approved, full details of a scheme for external lighting shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall be provided prior to the first occupation of the development and thereafter retained.
- 7) Prior to first occupation of the development cycle parking facilities shall be provided in accordance with details having been submitted to and approved in writing by the Local Planning Authority. These details shall be provided prior to the first occupation of the development and thereafter retained.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any amending Order, the areas shown for parking on the approved plans shall be retained for such use.
- 9) Prior to first occupation of the development hereby approved the areas the hard surfaced areas of the development, including roads, pavements, driveways and car parking areas shall be surfaced in accordance with details that have been submitted to, and approved in writing by, the Local Planning Authority.
- 10) Prior to first occupation of the development hereby approved the site shall be landscaped in accordance with landscaping details having been submitted to and approved in writing by the Local Planning Authority. Where relevant the details shall include full details of both hard and soft landscaping proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes and density of planting
- 11) All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved.
- 12) Prior to first occupation of the development hereby approved the dwellings shall be insulated against the transmission of noise and vibration in accordance with a scheme of mitigation that has been submitted to, and approved in writing by, the Local Planning Authority. This scheme shall be provided prior to the first occupation of the development and thereafter retained.
- 13) In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 18:30hrs on weekdays and 13:00hrs on Saturdays; nor at any time on Sundays, Bank Holidays or Public Holidays.



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## Costs Decision

Site visit made on 10 November 2020

**by Benjamin Clarke BA (Hons.) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Thursday, 17 December 2020**

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**Costs application in relation to Appeal Ref: APP/J1915/W/20/3252551  
Unit 1 and 2, Monks Green Farm, Mangrove Lane, Hertford, Hertfordshire  
SG13 8QL**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr William Ashley (William Ashley and Partners) for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a barn conversion to create two dwellings, creation of first floor insertion of windows and doors to all elevations and four roof lights.
- 

### Decision

1. The application for an award of costs is partially allowed, in the terms set out below.

### Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Local Planning Authorities are encouraged, through the PPG, to exercise their development management responsibilities by relying only on reasons which stand up to scrutiny on the planning merits of the case.
3. The Council identified a single putative reason for refusal. This contained two separate strands: the first pertaining to the effects of the development upon the Green Belt; and the second relating to whether the appeal site was an appropriate location for a residential development.
4. In respect of whether the proposed development was inappropriate, the Council has referenced Paragraph 145 of the National Planning Policy Framework (the Framework). However, as will be noted from my appeal decision, this paragraph relates to the provision of new buildings within the Green Belt and is therefore not relevant to the consideration of the appeal scheme. This is because the appeal scheme pertains to the conversion of an existing building, rather than the erection of a new one.
5. In consequence, this amounts to unreasonable behaviour as had the Council fully considered Paragraph 146 and the precise wording of Paragraph 145 of the Framework, a different view might have been reached. Therefore, the applicant was put to unnecessary expense in pursuing an appeal, as it was

necessary to include an assessment regarding the merits of the proposal in respect of these points.

6. The Council has highlighted a breach of a development plan policy arising from the location of the development. Whilst I have disagreed with the Council's view regarding the harm arising from the breach, the fact that an assessment was made against a relevant and adopted development plan policy means that this cannot be considered to represent unreasonable behaviour.
7. Accordingly, in this regard, the Council's case was sufficiently explained and therefore, I can find no evidence of unreasonable behaviour within this particular matter. I therefore do not believe that this has resulted in unnecessary expense on the part of the applicant.
8. I note concerns raised by the appellant regarding the fact that the planning application was not formally determined by the Council. However, the Council has identified a putative reason for the refusal of planning permission. Therefore, it is reasonable to assume that the Council determined the planning application, it would have been a reason consistent with the putative reasoning. In consequence, the applicant would still have been required to make an appeal against the refusal of planning permission.
9. In result of this, I do not believe that this amounts to unreasonable behaviour that has caused unnecessary expense on the part of the applicant.

### **Conclusion**

10. The Council's putative reason for refusal identified two distinct strands. One pertained to whether the proposal was inappropriate in the Green Belt and the second regarding the suitability of the site as a location for residential development. I have found that the Council acted unreasonably in assessing the proposal against the provisions of Paragraph 145 of the Framework, however, the second strand (the suitability of the site) was reasonable. Accordingly, I conclude that a partial award of costs to contest the first strand is justified.

### **Costs Order**

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that East Hertfordshire District Council shall pay to Mr William Ashley (William Ashley and Partners) the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in the appeal process contesting matters pertaining to the effect of the development upon the Green Belt.
12. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Benjamin Clarke*

INSPECTOR



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## Appeal Decision

Site visit made on 20 October 2020

**by C Beeby BA (Hons) MIPROW**

**an Inspector appointed by the Secretary of State**

**Decision date: 29<sup>th</sup> December 2020**

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**Appeal Ref: APP/J1915/D/20/3252589**

**31 Brookbridge Lane, Datchworth SG3 6SU**

- 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 K Gymer and Ms J Florence against the decision of East Herts Council.
  - The application Ref 3/20/0599/HH, dated 18 March 2020, was refused by notice dated 11 May 2020.
  - The development proposed is 2no. side dormers.
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### 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 any relevant development plan policies and the revised National Planning Policy Framework (the Framework);
  - The effect on the openness of the Green Belt;
  - If the proposal is inappropriate development, 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

*Whether the proposal would be inappropriate development in the Green Belt*

3. The appeal site lies within the Green Belt. Policy GBR1 of the East Herts District Plan (2018) (the EHDP) sets out that planning applications within the Green Belt will be considered in line with the provisions of the Framework.
4. The Framework states, at paragraph 143, that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in paragraph 145. One of the exceptions is 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.

5. The Council submits that previous additions to the building have increased its volume by approximately 107%, and that the appeal proposal would result in a cumulative increase in volume of approximately 109%. The appellants contend that the proposal would result in less than a 2% increase in cumulative volume.
6. The proposal would consequently result in a cumulative substantial increase in the overall size of the dwelling even if the appeal proposal alone amounted to an increase of less than 2%. This cumulative increase would amount to disproportionate additions over and above the size of the original building.
7. As a result of the above factors, the proposal would be inappropriate development in the Green Belt and, in this regard, it conflicts with Policy GBR1 of the EHDP and with the Framework.

*Effect on the openness of the Green Belt*

8. Paragraph 133 of the Framework states that 'the essential characteristics of Green Belts are their openness and their permanence'. Openness has both spatial and visual dimensions.
9. Whilst the appeal property lies within a row of dwellings, the spacing between these contributes to the openness of the Green Belt. The scheme would increase the volume of the property, and would extend built form across such spaces. Both of the proposed dormers would be visible within the street scene. As a result, the proposal would erode the openness of the Green Belt in both spatial and visual terms. Although the loss of openness that would be directly attributable to the scheme would not be great in itself, it would add to the overall bulk of the property.
10. Thus, the proposal would have a greater impact on the openness of the Green Belt in spatial and visual terms than the existing development at the site and would therefore not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. The harm to openness would be limited due to the relatively modest scale of the proposal.

*Other Matter*

11. The appellants question the site's inclusion in the Green Belt. However, paragraph 136 of the Framework sets out that, once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. The evidence before me does not suggest that any such alterations are under consideration or have been made. Thus, there is no evidential basis for me to consider the matter further.

*Other considerations and the Green Belt balance*

12. I have found that the proposal would be inappropriate development which is, by definition, harmful to the Green Belt. As a result, permission should not be granted except in very special circumstances. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
13. The acceptability of the proposal according to other local policy on design and living conditions matters is a neutral issue which does not attract weight. The

site's location within the village's settlement boundary does not affect the provisions of Green Belt policy. I have not identified any other considerations which would weigh in favour of the proposal in the Green Belt balance. Thus, I find that the other considerations in this case do not clearly outweigh the harm that I have identified.

14. As a result, the very special circumstances necessary to justify the development do not exist. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

*C Beeby*

INSPECTOR

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Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Procedure
3/19/1492/FUL	Demolition of an existing barn, nissen huts and hard standing. Construction of five detached dwellings. Construction of associated access roads and landscaping.	GreenleysSlough RoadAllens GreenSawbridgeworth CM21 0LR	Refused Delegated	03/12/2020	Hearing
3/19/2402/FUL	Demolition of garage and erection of a detached three bedroom dwelling.	Oak Cottage ChippingBuntingford SG9 0PG	Refused Delegated	10/12/2020	Written Representation
3/20/0609/HH	Demolition of side and rear extensions and detached garage. Erection of a two storey rear extension.	Oak CottageBuntingford SG9 0PG	Refused Delegated	10/12/2020	Written Representation
3/20/0630/LBC	Demolition of side and rear extensions and detached garage. Erection of a two storey rear extension.	Oak Cottage Buntingford SG9 0PG	Refused Delegated	10/12/2020	Written Representation
3/20/0772/HH	Demolition of rear extension and demolition of outbuilding attached to garage. Erection of part single, part two storey rear extension. Installation of replacement windows to entire house. Retention of temporary annexe for the duration of work to the main dwelling.	66 High Street Walkern Stevenage SG2 7PG	Refused Delegated	09/12/2020	Fast Track
3/20/0854/HH	Retention of garage	PenrhynLondon RoadSpellbrookBishops Stortford CM23 4BA	Refused Delegated	30/12/2020	Fast Track
3/20/0962/FUL	Erection of a new attached dwelling with separate access, 2 off street car parking spaces and a front and side garden.	Land Adjacent To 208 Stortford Hall ParkBishops Stortford CM23 5AS	Refused Delegated	21/12/2020	Written Representation
3/20/0994/FUL	Retention of chicken coop for housing chickens, ducks and geese.	Land Adjacent Ideal FarmFriars RoadBraughing SG11 2NR	Refused Delegated	10/12/2020	Written Representation
3/20/1250/HH	Removal of conservatory and detached garage. Construction of single storey rear extension, two storey side extension and new front porch.	5 Sacombs Ash LaneAllens GreenSawbridgeworth CM21 0LU	Refused Delegated	16/12/2020	Fast Track
3/20/1254/HH	Erection of part single and part two storey rear extension, together with associated boundary works.	50 Tamworth RoadHertford SG13 7DN	Refused Delegated	16/12/2020	Fast Track
3/20/1505/HH	Erection of wooden car port to front of property.	5 ApplegateSawbridgeworth CM21 0DR	Refused Delegated	17/12/2020	Fast Track
3/20/1575/HH	First floor front extension.	36 Scotts RoadWare SG12 9JQ	Refused Delegated	16/12/2020	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
3/19/1492/FUL	Eilis Edmonds	GreenleysSlough RoadAllens GreenSawbridgeworth CM21 0LR	Demolition of an existing barn, nissen huts and hard standing. Construction of five detached dwellings. Construction of associated access roads and landscaping.	INPROG	Public Inquiry	TBA
3/19/2002/FUL	Bruce O'Brien	St Michael's Masonic HallSpringfield CourtBishops Stortford	Demolition of a non-designated heritage asset. Erection of a two storey building containing 4, one bed apartments and 2, two bed apartments. To include 2 rear juliet balconies, creation of bin store, drying area, bike store and 10 designated parking spaces.	VALID	Hearing	TBA
3/19/2099/FUL	Nick Reed	Land Adj To Long Leys Barn Fanshaws Lane Brickendon Hertford SG13 8PG	Site to contain one static caravan, with parking for two vehicles and associated infrastructure (retrospective).	VALID	Hearing	TBA
3/19/2202/FUL	Ashley Ransome	Kecksys FarmCambridge RoadSawbridgeworth CM21 9BZ	Retention of agricultural dwelling for use by owner of land; erection of balcony and access bridge; extension of existing roof and provision of rain screen to stair to agricultural store in basement.	INPROG	Hearing	TBA
3/19/2226/FUL	Susie Defoe	Agricultural Land West Of Orchard RoadTewin	Siting of a mobile home for a temporary period of up to 2 years in connection with the husbandry of cattle herd.	INPROG	Hearing	TBA
3/20/1040/FUL	Eilis Edmonds	Land At Millfield LaneBury GreenLittle HadhamWare SG11 2ED	Change of use of land to a four pitch Gypsy/Traveller site comprising the siting of 4 Mobile Homes, 4 Touring Caravans, and the erection of 4 dayroom buildings, and the formation of an internal track and hardstandings. Installation of bio disc septic tank.	INPROG	Public Inquiry	TBA
X/20/0177/CND	Eilis Edmonds	Land Off Chapel LaneLittle Hadham	Discharge appeal conditions 5 (site development scheme) and 6 (landscape maintenance scheme) attached to 3/19/0893/FUL	LODGED	Public Inquiry	TBA

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# DEVELOPMENT CONTROL

## Major, Minor and Other Planning Applications

**Cumulative Performance**  
(calculated from April 2020)

	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21
<i>Total Applications Received</i>	143	298	488	706	873	1072	1300	1552	1759			

<i>Percentage achieved against Local and National Targets</i>	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21		<b>Targets for Local Performance (set by East Herts)</b>	<b>National Targets (set by Government)</b>
<b>Major %</b>	100%	100%	100%	100%	100%	87%	78%	83%	78%				<b>Major %</b>	<b>60%</b>	<b>60%</b>
<b>Minor %</b>	92%	93%	92%	92%	92%	92%	90%	89%	89%				<b>Minor %</b>	<b>80%</b>	<b>65%</b>
<b>Other %</b>	92%	92%	90%	91%	92%	91%	92%	92%	91%				<b>Other %</b>	<b>90%</b>	<b>80%</b>

Appeals	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21
Total number of appeal decisions (Monthly)	4	6	3	5	2	14	13	18	8			
Number Allowed against our refusal (Monthly)	1	2	1	3	1	6	3	6	3			

Total number of appeal decisions (Cumulative)	4	10	13	18	20	34	47	65	73			
Number Allowed against our refusal (Cumulative)	1	3	4	7	8	14	17	23	26			

AGENDA ITEM NO. 6D

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