



James Ellis

Head of Legal and Democratic Services

**MEETING** : DEVELOPMENT MANAGEMENT COMMITTEE  
**VENUE** : PLEASE NOTE THAT THIS MEETING WILL BE HELD  
VIRTUALLY VIA ZOOM.  
**DATE** : WEDNESDAY 17 JUNE 2020  
**TIME** : 7.00 PM

**PLEASE NOTE TIME AND VENUE**

**MEMBERS OF THE COMMITTEE**

Councillor B Deering (Chairman)

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

**Substitutes**

Conservative Group: Councillors S Bull, R Fernando and J Kaye

Liberal 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.)*

**CONTACT OFFICER: PETER MANNINGS**

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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 - 29 April 2020 (Pages 7 - 14)

To confirm the Minutes of the meeting of the Committee held on Wednesday 29 April 2020.

### 5. Planning Applications and Unauthorised Development for Consideration by the Committee (Pages 15 - 18)

(A) 3/19/0226/FUL - Demolition of dwelling at No. 125 Dunmow Road and relocation and widening of the existing crossover to create a new access road to the land to the rear consisting of the rear section of gardens of 123-127 Dunmow Road to allow the construction of 9 new houses on the land to the rear and a relocated replacement dwelling for No. 125 Dunmow Road at 123 - 127 Dunmow Road\_(Pages 19 - 46)

Recommended for Approval.

### 6. Items for Reporting and Noting (Pages 47 - 76)

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

(B) Planning Appeals Lodged.

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

(D) Planning Statistics.

7. Urgent Business

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

MINUTES OF A MEETING OF THE  
DEVELOPMENT MANAGEMENT  
COMMITTEE HELD IN THE PLEASE NOTE  
THAT THIS MEETING WILL BE HELD  
VIRTUALLY VIA ZOOM. ON WEDNESDAY 29  
APRIL 2020, AT 7.00 PM

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

ALSO PRESENT:

Councillors S Bull, J Goodeve, L Haysey and  
A Ward-Booth

OFFICERS IN ATTENDANCE:

Peter Mannings	- Democratic Services Officer
Sara Saunders	- Head of Planning and Building Control
David Snell	- Service Manager (Development Management)
Victoria Wilders	- Legal Services Manager

390 APOLOGIES

None.

391 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Members and the Public to the meeting. He said that this virtual meeting would be conducted in the same way as any meeting of the Development Management Committee.

The Chairman introduced the Officers who were present for the meeting.

392 DECLARATIONS OF INTEREST

None.

393 MINUTES - 4 MARCH 2020

Councillor Ruffles proposed and Councillor R Buckmaster seconded, a motion that the Minutes of the meeting held on 4 March 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. Councillor Huggins abstained from voting as he had not been present at the meeting held on 4 March 2020. The Chairman said that he would sign the minutes as soon as this was possible.

**RESOLVED** – that the Minutes of the meeting held on 4 March 2020, be confirmed as a correct



record and signed by the Chairman.

394 3/19/1979/SV - VARIATION OF A S52 (S106) AGREEMENT UNDER PLANNING REFERENCE 3/0364/85; TO REMOVE THE DISCHARGE OF OBLIGATION RECITAL NO1 - NOT TO OCCUPY AS A SEPARATE UNIT FROM THE RIDING SCHOOL AND STABLES ON THE LAND KNOWN AS PETASFIELD STABLES AT LAND AT PETASFIELD STABLES, MANGROVE LANE, BRICKENDON

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The Service Manager (Development Management) said that the description of the application should have the reference to Section 106 deleted as this was not relevant to Section 52 agreements under the 1971 act. He summarised the application for the discharge of a legal agreement that required the occupier of the dwelling, built in the 1980s, to be a worker at Petasfield Stables

The Service Manager said that the application must be determined in the form of an approval or refusal by Members. The Section 52 agreement could not be amended or replaced with an alternative agreement.

Members were advised that the Section 52 agreement could be discharged by agreement with the Council or by application to the lands tribunal court if the Council did not agree to the discharge of the Section 52 agreement.

The Service Manager said that an application to the lands tribunal would be difficult for the Council to oppose and there would be costs involved. Officers would have to consider carefully whether to take any

action to enforce the agreement in terms of whether it would be expedient and in the public interest to take such action. The likelihood of success would have to be considered as would the position as regards costs.

The Service Manager explained that Officers had received 2 Member questions in advance of the meeting. The first related to whether occupation of the dwelling would be in breach of the Section 52 agreement if the stables had been demolished. He said that the answer was yes to that question. The second query was could the stables be demolished or converted without the Section 52 agreement.

The Service Manager said that removal of the Section 52 agreement would not prevent demolition or conversion of the stables and any conversion to another use would require planning permission. He said that the remote location of the site would make it unsustainable for residential development and any introduction of residential development would detract from the openness of the Green Belt.

The Service Manager referred to the matter of the increased market value of the dwelling arising from the discharge of the condition as being covered in paragraph 6.7 of the report submitted. He said that Officers had considered the historic nature of the Section 52 agreement when considering this application. Officers had also considered the tests of whether the Section 52 agreement was still reasonable in line with current policy regarding conditions and obligations.

The Service Manager explained that the degree of harm involved should be taken in account. Members should not have any regard to the value of the property when reaching their decision on this application as this was not a material consideration.

Councillor Page said that the matter of rural worker occupancy was redundant due to a change of occupancy arrangements. He said that it was clear from District Plan policy HOU5 that a rural worker occupancy condition could be removed if the need could no longer be demonstrated. He believed that the Officer report had indicated that the need could no longer be demonstrated.

Councillor Page said that there was guidance in the National Planning Policy Framework (NPPF) that stipulated that the removal of agricultural worker conditions was not in conflict with Green Belt policy.

Councillor Crystall questioned whether the applicant could re-apply for agricultural workers dwelling under District Plan policy HOU5. Councillor Andrews said that, based on the current situation with this application, he was not uncomfortable with supporting the recommendation in the report.

The Service Manager agreed with the points made by Councillors Page and Andrews. He said that the applicant could apply for another rural workers dwelling but the scale of the operation would not justify an on-site rural workers dwelling based on current planning policy. Members were advised that the benefits would not weigh the Green Belt harm and

this would therefore be contrary to policy.

Councillor Jones proposed and Councillor Huggins seconded, a motion that the variation of a Section 52 agreement under planning reference 3/0364/85 be approved as per the recommendation detailed in the report submitted. After being put to the meeting and a vote taken, this motion was declared CARRIED.

**RESOLVED** – that the planning obligation required by the legal agreement be discharged.

#### 395 ITEMS FOR REPORTING AND NOTING

Councillor Huggins commented on the unfortunate appeal decision in Buntingford High Street at 57a. Councillor Jones also expressed his concern that this appeal decision had gone against the Council's decision at 57a High Street, Buntingford in respect of application 3/18/1566/FUL.

Councillor Deering said that the Council had no control over the final decisions of the planning inspectorate but Officers did make representations when required to the inspectorate. The Authority was doing the best it could and the outcome was very disappointing in respect this appeal.

The Head of Planning and Building Control acknowledged the concerns that had been raised by Members. She said that Officers were monitoring the appeals for patterns and Officers kept the Council's planning policies under review.

RESOLVED – that the following reports be noted:

- (A) Appeals against refusal of planning permission / non-determination;
- (B) Planning Appeals lodged;
- (C) Planning Appeals: Inquiry and Informal Hearing Dates
- (D) Planning Statistics.

The meeting closed at 7.29 pm

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

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## **East Herts Council Report**

### **Council/Executive/Committee**

Development Management Committee

#### **Date of Meeting:**

17 June 2020

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

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

**Ward(s) affected:** All

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

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

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

**Contact Member** Councillor Jan Goodeve, Executive Member for Planning and Growth  
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**Contact Officer** Sara Saunders, Head of Planning and Building Control, Tel: 01992 531656  
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## DEVELOPMENT MANAGEMENT COMMITTEE – 17 JUNE 2020

<b>Application Number</b>	3/19/0226/FUL
<b>Proposal</b>	Demolition of dwelling at No. 125 Dunmow Road and relocation and widening of the existing crossover to create a new access road to the land to the rear consisting of the rear section of gardens of 123-127 Dunmow Road to allow the construction of 9 new houses on the land to the rear and a relocated replacement dwelling for No. 125 Dunmow Road.
<b>Location</b>	123 – 127 Dunmow Road
<b>Parish</b>	Bishop’s Stortford Town Council
<b>Ward</b>	Bishop’s Stortford – All Saints

<b>Date of Registration of Application</b>	05/02/2019
<b>Target Determination Date</b>	18/07/2020
<b>Reason for Committee Report</b>	Major Application
<b>Case Officer</b>	Fiona Dunning

### **RECOMMENDATION**

That planning permission be **GRANTED**, subject to conditions set out at the end of this report.

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

- 1.1 The application proposes a terrace of 9 two and three storey dwellings, which provide 6 x 3 bedrooms and 3 x 2 bedrooms and a detached 4 bedroom dwelling to replace the existing dwelling on site. The original plans were for 10 terrace dwellings and the replacement dwelling was to be subject to a separate application.
- 1.2 The application site includes the rear gardens of Nos. 123 and 127 Dunmow Road and all of 125 Dunmow Road.

- 1.3 The site is located within the settlement of Bishop's Stortford where development is acceptable in principle. Policy DPS2 of the District Plan sets out a hierarchy to deliver sustainable development to meet projected housing need for the district and sites the main settlements within urban are included. Policies DPS3 and BISH1 identify windfall allowances as part of the growth strategy.
- 1.4 The site is in a sustainable location being approximately 1 mile walk from Bishop's Stortford Railway Station and the town centre. The site is also close to employment and recreational activities. Therefore the principle of redeveloping this site for residential use is acceptable, subject to other District Plan policy requirements.
- 1.5 The main issues for consideration are design and layout, housing mix, highways and parking, noise impact, neighbour impact and flood risk/sustainable drainage.

## **2.0 Site Description**

- 2.1 The site is currently occupied by a two storey detached dwelling at No. 125 Dunmow Road and includes part of the rear gardens of Nos. 123 and 127 Dunmow Road. The development site and adjoining land have a number of trees up to 25 metres in height.
- 2.2 No. 123 is a detached dwelling and No. 127 is a mixed use dwelling and therapy business with 5 car parking spaces in front of the building for occupants and patients. Further to the southeast and along the west side of Dunmow Road is a mix of detached, semi-detached and terrace dwellings generally with car parking in the front setback and having 2 storeys with some dwellings having rear and side dormers to create a 3<sup>rd</sup> storey. The materials of buildings in the locality are brick and render.
- 2.3 To the north of the site is employment land, occupied by a car dealership and an electricity substation. To the east along the rear boundary of the site is an access road to service a number of large warehouse buildings. The road is separated by a 1 metre high hedge on the employment land. The northern and eastern

boundary is where many of the existing trees on the development site are located.

- 2.4 Dunmow Road is a busy road running between Bishop's Stortford to the west and towards the M11 to the east. Both sides of Dunmow Road have a footpath.

### **3.0 Planning History**

- 3.1 There is no recent relevant planning history.

### **4.0 Main Policy Issues**

- 4.1 These relate to the relevant policies in the East Herts District Plan, the National Planning Policy Framework (NPPF) and the Bishops Stortford All Saints Central South and part of Thorley Neighbourhood Plan.

<b>Main Issue</b>	<b>DP policy</b>	<b>Neighbourhood Plan</b>	<b>NPPF</b>
Principle	INT1, DPS2, DPS3, BISH1	HPD1	Chapter 5
Design, layout and scale	DES3, DES4, DES5	HDP2, HDP3	Chapter 12
Housing	HOU1, HOU2, HOU3	HDP1, HDP3, HDP4	Chapter 5
Highways and parking provision	TRA1, TRA2, TRA3	TP1, TP3, TP7, TP8	Chapter 9
Noise impacts	EQ2		Chapter 15
Neighbour impact	DES3		Chapter 12
Flood risk and drainage	WAT1, WAT5	GIP7	Chapter 14

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

## **5.0 Summary of Consultee Responses**

- 5.1 HCC Highway Authority originally raised concerns with the access but the amended plans with a revised site access layout and tracking, for refuse or fire tender vehicles, appears satisfactory. Conditions and informatives are recommended.
- 5.2 Lead Local Flood Authority raises concerns about the surface water drainage. In particular the status of a surface water sewer network downstream as it is not showing as an asset of Thames Water or as a culverted watercourse and therefore is viewed as a private asset. The LLFA require details of the private asset and whether it is suitable to be used for the additional flow from the development and its future maintenance and repair and the potential flood risk both on and off site if the asset were to fail. In addition, the LLFA highlighted the potential variation in groundwater levels on site, which needed a longer period of monitoring and the predicted Risk of Flood based on the Environment Agency's Flood maps. These matters need to be resolved prior to commencement of the development and conditions are recommended.
- 5.3 Thames Water advises that if the developer follows the sequential approach to surface water disposal there is no objection. Any significant work near the sewers needs to minimise risk of damage in any way. No objection regarding the waste water network and waste water process infrastructure capacity.
- 5.4 EHDC Landscape Advisor provides comments on the importance of the north-eastern and north-western boundary trees. The advisor raises some concerns about clearing the site of existing trees, the ability to plant trees adjacent to the access road.
- 5.5 HCC Development Services advise that due to the floor space being no more than 1000sqm and the number of residential is 10 or less no planning obligations are sought.

- 5.6 EHDC Environmental Health Advisor raises no objections and requests a condition addressing the recommendations set out in the Noise Assessment Report. Other recommended conditions and informatives relating to construction management and potential contamination.
- 5.7 EHDC Waste Services are satisfied that the site is accessible for a refuse collection vehicle with a length of 12.1m to be able to manoeuvre on site.
- 5.8 Herts Crime Prevention Design Advisor advises that the plans do not address any potential issues around crime. The replacement dwelling at 125 Dunmow Road will have its rear garden in a vulnerable location as the access road is adjacent. If the applicant was to seek Secured by Design accreditation that would address concerns.
- 5.9 UK Power Networks advises that there is a substation within 6m of the development and therefore UK Power Networks is notifiable under the Party Wall Act and the applicant would be responsible for any costs associated with any mitigation measure required. The company's guidelines state that a dwelling should be a minimum of 10 metres from an outdoor transformer.

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

## **6.0 Town Council Representations**

- 6.1 Bishop's Stortford Town Council objects to the application due to unsafe and dangerous access and exiting onto Dunmow Road. They consider that the development is also out of keeping with the streetscene and is overdevelopment of the area.

## **7.0 Summary of Other Representations**

7.1 22 letters of objection were received from neighbours in response to the two rounds of consultation. The main objections are summarised below:

- Amendments are minimal
- 10 houses is excessive on a small backland plot and appears cramped
- The number of units should be reduced
- 3 storey terraced houses would have a scale and bulk harmful to character and appearance of the local area
- Loss of privacy, particularly to 129 Dunmow Road
- 3 storey dwellings with a flat roof would be out of character in this market town
- Small north-facing gardens will not provide suitable outdoor space
- On-site playspace is not safe and nearest park is 1 mile away
- Insufficient parking will add congestion
- Infilling on main roads should not be allowed
- Refuse collection would be difficult
- Increase in road traffic and contributions should be considered for Haymeads Lane junction as it operates near capacity
- Traffic modelling hasn't considered Haymeads Lane
- The new access onto Dunmow Road and the number of vehicles using it will be dangerous
- There will be a cumulative impact on traffic Dunmow Road with other developments
- New access points should not be permitted onto Dunmow Road which is extremely busy at peak times
- Concern about pedestrian safety with the pavements being narrow and busy with parents, children and workers at the two industrial sites
- Access should be from the industrial estate
- Cars turning right into the site will create more traffic
- Dunmow Road is part of a rat run between Pig Lane and the M11 and cannot cope with extra traffic
- Construction traffic will cause disruption



- Transport Statement appears to underestimate peak hour vehicle use
- Loss of some large mature trees and more details on landscaping and surface finishes should be required
- Water pressure is extremely poor and an additional 10 homes may impact it further
- Concern over design of drainage to Dunmow Road sewerage system
- Noise and air pollution impacting on children
- No Section 106 contributions towards infrastructure

## **8.0 Consideration of Issues**

### Principle

- 8.1 The site is located within the settlement of Bishop's Stortford where development is acceptable in principle. Policy DPS2 of the District Plan sets out a hierarchy to deliver sustainable development to meet projected housing need for the district and sites such within urban areas are included. Both Policy DPS3 and BISH1 identify windfall allowances, which is also in accordance with Chapter 5 of the NPPF.
- 8.2 The site is in a sustainable location being approximately 1 mile walk from Bishop's Stortford Railway Station and the town centre. The site is also close to employment and recreational activities. Therefore the principle of the redevelopment of this site for residential is acceptable.

### Design, layout and scale

- 8.3 Policy DES4 of the District Plan and Policy HPD2 of the Bishop's Stortford Neighbourhood Plan require new developments to be of a high standard of design that complements the surrounding area. This is consistent with the relevant paragraphs in the NPPF. Policy DES3 requires proposals to not result in a net loss of landscape features and where losses are unavoidable then compensatory planting be sought. Policy DES5 relates to designing out crime.

- 8.4 The plans were amended after the first round of consultation and concern about the character of the flat roof design and the number of terraced dwellings as well as the replacement dwelling not being part of the proposal. The amended plans removed one of the terraced dwellings, provided details of the replacement dwelling and altered the appearance of the development so that it clearly complemented the character of the area with a modern interpretation of the two storey brick and render dwellings with rooms in the pitched roof space.
- 8.5 The proposed terrace dwellings also provide a modern form of bay windows. The three dwellings that have two bedrooms have a single bay window at first floor and the six dwellings with three bedrooms have a double bay window above the ground floor. The replacement dwelling is two storeys with a room in the roof and provides bay windows as a design feature.
- 8.6 The materials proposed include brick at ground floor level and render above, which is consistent with the materials of the adjoining and nearby dwellings. All of the rooms meet the National space standards and due to the orientation of the site and the established trees at the rear of the site, each terrace dwelling has a family room with a north-east orientation at ground floor adjoining the garden and a south-west facing reception room on the first floor. This will ensure that the occupants have living areas that will receive natural light throughout the day. The depth of the proposed terrace dwellings is approximately 9 metres.
- 8.7 The overall height of the proposed terrace dwellings range from 9.38m to 10m, with the eaves heights at the front being between 4.63m to 5.6m. This is higher than some of the nearby dwellings which are between 8.2m and 8.6m with the eaves being 5.1m and 5.5m respectively. The difference in height compared with the nearby dwellings does not raise any issues as the proposed terrace is setback from the street and therefore will appear to have a similar height to the nearby dwellings.

- 8.8 The access road is 4.8m wide with a 1.7m wide footpath on the south-western side. On the other side of the access road there is a width of approximately 1.7m for landscaping adjoining No. 123 Dunmow Road. A 1.8m high timber fence is proposed around the perimeter of the site, with a higher fence required adjacent to the car sales business to the north where jet washing is carried out.
- 8.9 There are a number of trees and shrubs located on site and adjoining land. None of these are protected by a tree preservation order. A tree survey and Arboricultural Planning Report has been submitted as part of the application. None of the existing trees on site have been identified as high quality with most being low quality with a limited life. Approximately twelve trees are dead or in a very poor state.
- 8.10 The tallest trees (25m) to be felled to accommodate the development are a Category C Willow and a Category B Eucalyptus. The remaining trees and shrubs to be felled are between 2 and 20 metres and are either Category C or dead/in very poor state. Whilst there are a high number of trees to be removed, replacement planting is proposed to be with native trees around the perimeter of the site, which will benefit the future occupants as well as the adjoining neighbours. This is consistent with Policy DES3. Conditions are recommended can to protect the retained trees during construction and protect the existing and the replacement trees.
- 8.11 The layout of the dwellings with the communal shared space in front of the ground floor kitchens and first floor living area will provide natural surveillance and encourage a sense of community for the occupants of the dwellings.
- 8.12 The comments of the Crime Prevention Design Adviser in relation to the rear garden of the replacement dwelling are noted. Whilst the details have not been provided as part of the application, Chapter 10 of the Secured by Design Homes 2019 guide provide a range of measures that could be undertaken to make the rear garden less vulnerable to crime. A condition is recommended can to specifically address this issue.

- 8.13 Overall, it is considered that the design of the terrace building and the detached dwelling is of high quality and has optimised the amount of development on the site whilst complementing the mix of character of the locality. A recommended condition would ensure the use of good quality materials for the buildings. The provision of landscaping on site supplementing the retained trees and shrubs will assist in the development being sympathetic to the surrounding area.
- 8.14 Many of the objections that related to the design and layout were to the original submitted plans but some of these objections also referred to the number of dwellings and a terrace being out of character. The site description highlighted that the existing area has a mix of dwellings, including terraced dwellings, which are located opposite the site and therefore the proposal is not considered to be out of character with the locality. In regard to the density of the scheme, 10 dwellings on the site equate to 42 dwellings per hectare (dph), which is considered to be a suitable density for an urban area. The density also sits between the lower density of the detached and semi-detached dwellings on the north-eastern side of Dunmow Road, which equate to 15dph and the higher density of the terraced and semi-detached dwellings opposite the site, which is 63dph.
- 8.15 Based on the above assessment, the layout and design is considered to be acceptable in its context attracting proposal positive weight.

### Housing

- 8.16 The proposed development does not meet the threshold for affordable housing as set out in paragraph 63 of the NPPF. The proposed mix of housing is 3 two bed dwellings, 6 three bed dwellings and a four bed dwelling. Each of the terraced dwellings has private open space and two living areas with different orientation, which provides good light and outlook. The mix is

considered to be satisfactory given the design and the site constraints.

- 8.17 The site is in an urban location that supports higher densities with accessible services and facilities.
- 8.18 The proposal to provide good quality housing with private and communal areas carries positive weight.

#### Highways and Parking Provision

- 8.19 The District Plan parking requirement is 2 spaces for two bedrooms, 2.5 spaces for three bedroom and 3 spaces for 4 bedroom units, a total requirement of 24 spaces. The site lies within accessibility zone 4 reducing the requirement by 25% to 18 spaces. The proposed parking provision is 18 spaces in compliance with the adopted parking standard.
- 8.20 Services and facilities are within walking distance and therefore may encourage residents to undertake sustainable journeys rather than using a private vehicle. There is a need to provide secure cycle storage, which each dwelling could provide either in front of the dwelling or in the rear garden or patio area. It is not considered necessary to condition the requirement for cycle storage.
- 8.21 The existing crossover is to be replaced with a widened crossover with visibility splays, which will include low level fencing. This will assist in safe ingress and egress. Many of the objections received from residents related to existing traffic issues on Dunmow Road and Haymeads Lane. These matters cannot be addressed by a planning application for nine new dwellings. The Highway Authority is required to assess an application based on highway safety and has advised that with the widened and relocated crossover, the proposal meets highway safety matters.
- 8.22 The Highway Authority has requested a number of conditions, including a Construction Traffic Management Plan, which will assist in controlling construction traffic using main roads and avoiding

peak hours. This is proposed to be incorporated in one condition with the Construction Environmental Management Plan.

- 8.23 The highway and impact of the development is regarded as neutral.

#### Noise Impacts

- 8.24 There are three main noise sources surrounding the development site. This includes traffic on Dunmow Road, the electricity substation and car sales to the north and the industrial development at the rear of the site. A noise survey was undertaken in the garden of No. 125 Dunmow Road on the northern side and at the rear. The Noise Assessment made recommendations on external boundary treatments and glazing of windows. It also identified aircraft noise and made recommendations on the roof materials. The Environmental Health Officer is satisfied with the Noise Assessment undertaken and a number of conditions are recommended.
- 8.25 Subject to the proposed conditions, the proposal is not considered to be negatively impacted by noise and the impact is therefore regarded as neutral.

#### Neighbour impact

- 8.26 The loss of some of the existing trees on site and the construction of a terrace of dwellings will change the appearance of the site, however this is not considered to be significant in the long-term with some trees retained and supplemented with replacement planting along the boundaries of the site. There are three dwellings closest to the proposed terrace at the rear of the site. The development site occupies part of the rear gardens of two of these dwellings, which means that the terraced dwellings directly face the rear windows and gardens of these dwellings.
- 8.27 The distance between habitable room windows of the closest terraced dwelling window is 30m to the rear of 123 Dunmow Road, 33m to the rear of 127 and 36m to the rear of 129 Dunmow Road. These distances are considered acceptable in an urban setting.

- 8.28 The outlook from the rear windows of the adjoining dwellings will also change from a rear garden with some outbuildings to a row of terraced dwellings. Due to the separation distances, the tree retention, the proposed landscaping and the design of the dwellings is not considered to create any significant impacts on outlook of neighbours.
- 8.29 The proposed detached dwelling towards the front of the site will reinforce the front building line. The proposed dwelling is close to No. 127 Dunmow Road, which is setback from the side boundary by 2.2m and the proposed dwelling has a 1.2m setback from this boundary. This setback is not considered to create any significant impacts on No. 127 as this side wall does not have windows at first floor and the ground floor does not have any habitable room windows as this is where two treatment rooms are shown. The separation distance to No. 123 and the proposed dwelling is approximately 10 metres.
- 8.30 The access road could potentially impact on the occupants of No. 123 Dunmow Road but there is a landscape strip and a proposed 1.8m high timber fence in this location.

#### Flood Risk and sustainable drainage

- 8.31 The Flood Risk Assessment submitted with the application addresses on-site drainage and potential flooding. The majority of the site is in Flood Zone 1, but there is an area in the north-eastern part of the site that falls within Flood Zone 2 that is subject to flood risk. The Environment Agency's Standing Advice indicates that dwellings are a compatible use in Flood Zone 2, subject to surface water management, finished floor levels and access and evacuation measures. The Lead Local Flood Authority has recommended pre-commencement conditions, which the applicant has agreed to.
- 8.32 Part of the pre-commencement condition is for groundwater monitoring to be undertaken for a minimum of 6 months (excluding

summer) at the location of the flood storage compensation area is proposed.

## **9.0 Conclusion – the planning balance**

- 9.1 The proposal will provide 9 new family homes and replace the existing dwelling on a site in a sustainable location with good access to services and facilities. The development has been designed with the site constraints being taken into consideration and will provide a good standard of living accommodation for future occupants. The delivery of quality housing is regarded as a positive benefit of the proposal and carries significant positive weight.
- 9.2 The design and layout of the development is considered to be of good quality in accordance with the requirements of Policy DES4 and this carries positive weight.
- 9.3 The density of the development is considered to be consistent with the context of the site and surrounding area and the constraints of the site have been given satisfactory consideration.
- 9.4 The proposal does not result in significant detrimental impacts on adjoining and nearby neighbours and these impacts are regarded as neutral.
- 9.5 The Highway Authority is satisfied that the access to the site provides for pedestrian and vehicular safety and the on-site parking meets the adopted standard. Subject to conditions, the highway impact of the development is regarded as neutral.
- 9.6 Part of the site lies in Flood Zone 2 and the Lead Local Flood Authority has requested a pre-commencement condition, which the applicant has agreed to. Subject to this and other conditions proposed, the flood risks associated with the proposal are regarded as being neutral.
- 9.7 The loss of trees from the site is regrettable and this carries some negative weight. However, but this impact is not significant. The



trees to be removed are not protected and the retained trees will be protected during construction and will be supplemented with new trees to be planted and managed by proposed conditions. The negative weight assigned is therefore limited.

## **RECOMMENDATION**

That planning permission be **GRANTED**, subject to the conditions set out below:

### **Conditions**

1. Three year time limit
2. Approved plans
3. 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 plus climate change 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.

A full detailed drainage design and surface water drainage assessment should include:

1. Permission from all downstream landowners where any or part of the private asset is on their land; if permission is unable to be sought, evidence of an alternative feasible surface water discharge mechanism will need to be provided.
2. Confirmation of the management and maintenance of the private asset, which the development site proposes to discharge into.

3. Results of groundwater monitoring for a minimum of 6 months during autumn, winter and spring at the location where the flood storage compensation is to be provided.
4. Assessment of the predicted surface water flooding on site, including confirmation of the surface water storage volume to be provided, a scheme for how this is going to be managed on site and how it will be discharged from the site. This should include all aspects of the scheme's feasibility, including any groundwater interactions and how this will be mitigated.
5. A detailed surface water drainage strategy. The drainage strategy should include all updated calculations/modelling of all SuDS features, with attenuation to be provided to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + 40% for climate change event.
6. Surface water discharge from the site should be at the 1 in 1 year Greenfield run-off rate; detailed technical justification will be needed if a different rate is to be used
7. Full detailed drainage plan including location of all the drainage features, the flood storage compensation and the final discharge point.
8. Detailed engineered drawings of the proposed SuDS features including their location, size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event.
9. Demonstrate appropriate SuDS management and treatment and inclusion of above ground features such as lined permeable paving, reducing the need for underground tanks.
10. Provision of half drain down times within 24 hours.
11. Silt traps for protection of any residual tanked elements.

Reason: To prevent the increased risk of flooding, both on and off site and to reduce the risk of flooding to the proposed development and future occupants.

4. Upon completion of the drainage works for the site in accordance with the timing / phasing arrangements, the following must be submitted to and approved in writing by the Local Planning Authority:
  1. Provision of a verification report (appended with substantiating evidence demonstrating the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme). The verification report shall include photographs of excavations and soil profiles/horizons, installation of any surface water structure (during construction and final make up) and the control mechanism.
  2. Provision of a complete set of as built drawings for site drainage.
  3. A management and maintenance plan for the SuDS features and drainage network.
  4. 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.

5. Prior to the commencement of the development, a detailed Construction Management Plan (CMP), including management of construction traffic, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following:
  - a) The construction programme and phasing
  - b) Hours of construction activities and deliveries to avoid school pickup/drop off times,
  - c) Details of any highway works necessary to enable construction to take place,
  - d) On-site parking and loading arrangements for deliveries and contractors, including areas for car parking, amenities and storage of materials,
  - e) Details of hoarding,
  - f) Management of traffic to reduce congestion, including details of construction vehicle numbers, type and routing,

- g) Control of dust and dirt on the public highway,
  - h) Details of consultation and complaint management with local businesses and neighbours,
  - i) Waste management proposals,
  - j) Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour,
  - k) Details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures,
  - l) Post construction restoration/reinstatement of the working areas and temporary access to the public highway.
- The development shall be carried out in accordance with the details approved.

Reason: To safeguard the amenity of residents of nearby properties, in accordance with policy EQ2 of the adopted East Herts District Plan 2018 and to ensure highway safety.

6. Prior to commencement of the development hereby permitted, details of all materials to be used for hard surfaced areas within the site, including roads, driveways and car parking area, with any SuDS requirement for permeability noted, shall be submitted to and approved in writing by the planning authority. The development shall be carried out in accordance with the details approved.

Reason: To ensure that the internal roads and other layouts are built to required standards.

7. Prior to commencement of the development hereby permitted, the tree protection measures set out in the Arboricultural Planning Report at Appendix B3, Plan Numbers TCTC-17421-PL-03 and TCTC-17421-PL-04 shall be carried out on site. For the avoidance of doubt, this includes the Arboricultural Method Statement and protective fencing specification set out on the TCTC-17421-PL-04. Tree protection measures shall be in place for the duration of the works on site and retained trees shall be maintained for at least five years following contractual practical completion of the approved development. In the event that retained trees become damaged or

otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree dies or is removed without the prior consent of the Local Planning Authority, the tree shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.

Reason: To avoid damage to health of retained trees, in accordance with Policy DES3 of the East Herts District Plan 2018 and the National Planning Policy Framework.

8. Prior to above ground works commencing, a scheme for the protection of the dwellings from noise from adjacent industrial and commercial units shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall follow the recommendations identified in the Cole Jarman Planning Noise Assessment Report (as amended) Ref 18/0648/R1 dated April 2019 and associated documentation. 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 dwellings in accordance with policy EQ2 of the adopted East Herts District Plan 2018.

9. Prior to the commencement of above ground construction full details of both soft and hard landscaping shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:
  - (a) planting plans
  - (b) schedules of plants, species, size and densities
  - (c) timetable for implementation

- (d) measures to protect the soft landscaping areas from indiscriminate vehicle parking on site
  - (e) any permeable hardstanding areas required for SuDS
  - (f) material to be used for hardstanding areas.
- Thereafter the development shall be implemented in accordance with the approved details.

Reason: To ensure the provision of landscaping in accordance with Policy DES3 of the East Herts District Plan 2018.

10. 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.

11. Prior to the above ground works commencing on the detached replacement dwelling, details of the fencing of the rear garden and access to the bin storage, consistent with the principles of Chapter 10 of Secured by Design Homes 2019, shall be submitted to and approved in writing by the Local Planning Authority. The details approved shall be implemented prior to the first occupation of this dwelling.

Reason: To help secure this vulnerable area to protect the future occupants of this dwelling from crime.

12. Prior to first occupation of the development hereby permitted, a visibility splay measuring 2.4m x 43m shall be provided to each side of the access where it meets the highway and such 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 highway safety.

13. Prior to the first occupation the development hereby permitted the vehicular access shall be provided and thereafter retained at the position shown on the approved plan drawing number S3318/013B Rev B. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway.

14. Prior to the first occupation, vehicular and pedestrian (and cyclist) access to and egress from the adjoining highway shall be limited to the access shown on drawing number S3318/013B Rev B only. Any other access(es) or egresses shall be permanently closed, and the footway / highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority, concurrently with the bringing into use of the new access.

Reason: In the interests of highway safety and amenity.

15. Prior to first occupation of the development hereby approved, the refuse and recycling bin storage areas shall be provided on site in accordance with drawing number S3318/01F. The facilities shall thereafter be maintained.

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

16. 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.

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

17. 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.

Reason: To safeguard the amenity of residents of nearby properties, in accordance with policies EQ2 of the East Herts District Plan 2018.

18. 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 as described in Schedule 2, Part 1, Class A, Class B or Class E of the Order shall not be undertaken without the prior written permission of the Local Planning Authority.

Reason: To ensure the Local Planning Authority retains control over any future development as specified in the condition in the interests of amenity, biodiversity heritage having regard to Policies DES4, HA1 and NE3 of the East Herts District Plan 2018.

### **Informatives**

1. Other legislation (OL01)
2. Street naming and numbering (19SN)
3. 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/business-and-developer-information/development-management/highwaysdevelopment-management.aspx>

4. 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 works commence. Further information is available via the website:  
<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-developmentmanagement.aspx>
5. 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/business-and-developer-information/development-management/highways-developmentmanagement.aspx>
6. 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-anddeveloper-information/development-management/highways-developmentmanagement.aspx>

7. The applicant is advised that any unsuspected contamination that becomes evident during the development of the site should be brought to the attention of the Local Planning Authority and appropriate mitigation measures agreed.

### **Summary of Reasons for Decision**

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan and any relevant material considerations. The balance of the considerations is that permission should be granted.

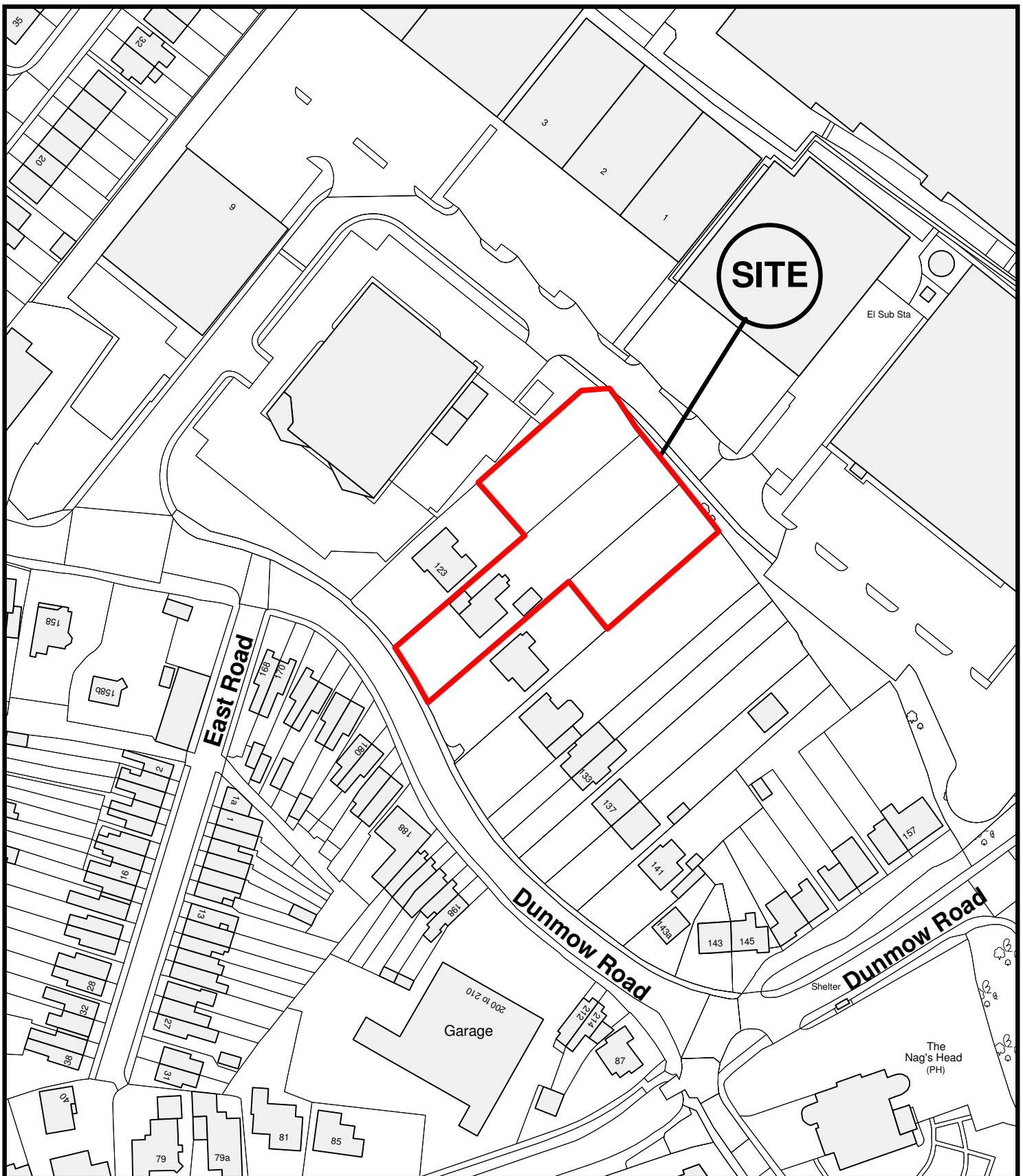
**KEY DATA****Residential Development**

Residential density	42 dwellings/Ha	
	Bed spaces	Number of units
Number of existing units demolished	3	1
Number of new housing units	1	
	2	
	3	
Number of new house units	1	
	2	3
	3	6
	4+	1
Total		9

**Residential Vehicle Parking Provision**

Parking Zone		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.5	
2	2	6
3	2.5	15
4	3	3
Total required		24
Accessibility reduction	75- 100%	25% reduction
Resulting requirement		18
Proposed provision		18

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

**Address: Land to the rear of 123, 125 And 127 Dunmow Road,  
Bishops Stortford, Hertfordshire, CM23 5HQ**

**Reference: 3/19/0226/FUL**

**Scale: 1:1250**

**O.S Sheet: TL4921**

**Date of Print: 21 May 2020**

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

<b>Application Number</b>	3/19/0245/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Molewood HallHigh MolewoodHertford SG14 2PL
<b>Appellant</b>	Mr Michael Edwards
<b>Proposal</b>	Erection of an equipment store/workshop and personal office together with change of use of land from woodland to residential curtilage all related to Molewood Hall (retrospective).
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/19/0542/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Thorley Street PaddockThorley StreetThorleyBishops Stortford
<b>Appellant</b>	Mr Pegrum
<b>Proposal</b>	Erection of a 2 storey business unit (587 sq m) with associated access, parking (12 spaces) and landscaping.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/19/1437/ARPN
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	The Tractor StoreElbow Lane FarmElbow LaneHertford HeathHertfordSG13 7QA
<b>Appellant</b>	Ladkarn Holdings Limited
<b>Proposal</b>	Change of use from an agricultural outbuilding to 1 larger dwelling house.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/19/1936/ARPN
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Poultry Barn Monks Green FarmMangrove LaneBrickendonHertford SG13 8QL
<b>Appellant</b>	Mr W Ashley
<b>Proposal</b>	Change of use of agricultural building to C3 (residential) for 5 dwellings.
<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 Decision

Site visit made on 22 January 2020

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

an Inspector appointed by the Secretary of State

Decision date: 3<sup>rd</sup> April 2020

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**Appeal Ref: APP/J1915/W/19/3238401**

**Molewood Hall, High Molewood, Hertford SG14 2PL**

- 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 Michael Edwards against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/0245/FUL, dated 30 January 2019, was refused by notice dated 4 April 2019.
  - The development proposed is erection of an equipment/workshop and personal office together with change of use of land from woodland to residential curtilage.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. A building was under construction on the site at the time of my visit. Apart from some apparent differences with the design of the roof, the remainder appeared broadly consistent with the submitted plans. The proposed timber cladding had not been implemented. For the avoidance of doubt, I have considered the appeal on the basis of the submitted plans.

### Main Issues

3. The main issues are;
  - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
  - The effect on the openness of the Green Belt;
  - The effect of the development on the character and appearance of the area;
  - 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 required to justify the proposal.

### Reasons

*Whether inappropriate development in the Green Belt*

4. The appeal relates to a large detached dwelling set in generous wooded grounds. There is an existing detached garage/storage building on the site that sits between the main dwelling and the development. This is of a similar scale and appearance to what is proposed. The stated intention is to use the building

- for a mixture of storage, including machinery associated with the maintenance of the grounds, and a home office.
5. Policy GBR1 of the East Herts District Plan (EHDP)(2018) states that planning applications in the Green Belt will be considered in line with the provisions of the Framework. Paragraph 145 of the Framework states that the construction of a new building in the Green Belt should be considered inappropriate development unless it meets one of a number of exceptions. The development would not fall into any of the categories listed. While the building would ostensibly be used largely for the storage of maintenance equipment, this does not amount to forestry. Neither is there any evidence to suggest the grounds are used for formal recreational purposes.
  6. In any event, the building would not be used exclusively for storage. The office element would also clearly fall outside any of the exceptions, as would the incorporation of any woodland into residential curtilage.
  7. As such, the proposal constitutes inappropriate development in the Green Belt. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I shall return to this matter below.

#### *Openness*

8. The essential characteristics of Green Belts are their openness and their permanence. One of the stated purposes of the Green Belt is to keep land permanently open. In this case, the development would result in a building where previously none existed. The building is also not insignificant in scale for a residential outbuilding. It has a height of over 6 metres and a footprint of around 94 square metres. This constitutes a relatively large addition to the built form of the site, both in terms of footprint and volume.
9. It is stated that the building would replace an existing storage container on the site. Nevertheless, the appellant accepts that the building is both taller and would have a larger footprint than the container. The outcome would therefore still be a tangible increase in the built form on the site to the detriment of the openness of the Green Belt.
10. The site is well screened by woodland, other buildings and topography. Opportunities to view the building from outside the site are likely to be limited. Any views that are available would be glimpsed in nature and heavily filtered. The building would also be well screened from housing on Cowper Crescent by the main dwelling and existing detached garage. While the change in nature of the site would be clearly discernible to occupants of the dwelling itself, the overall visual impact on openness would not be significant.
11. However, the absence of significant visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt. When considered as a whole, the spatial impact of the development means that it would clearly fail to preserve the openness of the Green Belt. This adds to the harm resulting from being inappropriate development in the Green Belt.

### *Character and appearance*

12. The development clearly adds to the existing cluster of buildings and density in this part of the site. Consequently, it does have something of an urbanising impact. However, the grounds are extensive, and the building is well separated from neighbouring properties. In this respect, it does not alter the character or grain of the area, which is one of detached dwellings in large plots. The effect on the character of the wider area would not be significant.
13. The extent of views into the site from outside will differ, with some parts being more visible and prominent than others. However, the siting of this building to the west of the garage and main dwelling means that it is not a particularly intrusive structure from the private views of nearby residents. The building is relatively large for a domestic outbuilding. However, when viewed from beyond the site it is unlikely it would be considered as a separate dwelling or annex. The design and materials of the building would also not be inappropriate in a rural location.
14. Therefore, while the building increases the density of development on the site, this does not rise to the level of an unacceptable impact on character and appearance. Accordingly, there would be no conflict with EHDP policies DES4 and HOU12 which seek to ensure, amongst other things, that development respects the character of an area and that the incorporation of land into residential curtilage would not have an adverse impact on character and appearance. The reason for refusal includes reference to Policy DES3. This relates to loss of landscape features. There is nothing to suggest the development would result in any conflict with this policy.

### *Other Considerations*

15. The appellant argues that the development would be acceptable if not for an existing condition which removes certain permitted development rights. This has been the subject of a separate appeal. The appellant accepts that even without the condition, the building itself would not constitute permitted development. Rather, he contends that without the condition there would be a realistic fallback position. However, as the condition remains in place there is no potential fallback on this basis. As such, I have not given any weight to this argument.
16. The appellant has also argued that he has a fallback position as a result of permitted development rights on other properties that he owns in the estate. In the event the appeal is dismissed, he contends that these would allow the construction of equipment stores that may be more harmful than the development. There are no plans before me to demonstrate how such development could take place. Therefore, it is not possible to conclude with any certainty that the 'fallback' would be any more harmful to the openness of the Green Belt and/or the character of the area than the development.
17. In addition, there is no mechanism before me to extinguish existing permitted development rights. If permission were granted on this basis, there would be nothing to stop further development coming forward in those locations in the future. If this were to happen, then any supposed benefits of the development in this regard would be lost. As a result of the above, I have given only moderate weight to this fallback position.

18. The estate is extensive, and it would be reasonable to assume it requires a large amount of maintenance. I acknowledge that being able to store items necessary for this maintenance would be important to the appellant. However, it is not clear why this could not be achieved in a less harmful way.
19. For example, the permission for the adjacent building described it as a triple garage, equipment store and playroom. This should therefore meet some or all of the requirements outlined in the appellant's statement. While I have noted the comments in relation to the number of private vehicles owned, there is no absolute necessity for these to be parked in the garage. I saw that there was ample space for vehicles to be parked outside without the need to park on the grass. Moreover, the particular requirement for this level of parking relates primarily to the personal circumstances of the appellant and the number of vehicles the household owns, including a private collection of motorcycles. Concerns about security are noted, but parking vehicles outside the home is not an unusual or inherently risky practice.
20. The appellant also states that they have planning permission for a stable elsewhere on the grounds. It is possible that this could provide some opportunities for additional storage space. It is also unclear what the extensive area of roof space is needed for. The items needed to be stored are mainly vehicles or heavy-duty items. There is little to suggest that this space is necessary or useful for the purposes suggested.
21. The appellant's statement also refers to additional security measures, including cameras, that have been put in place in response to concerns over crime. There is nothing to suggest that these would not be effective in providing comfort that existing arrangements for the storing of maintenance and gardening equipment, would not be adequate. The provision of additional security measures may also be a potential option which would negate the need for inappropriate development in the Green Belt. Based on the evidence before me, I consider that the above factors should carry only moderate weight in favour of the proposal.
22. The appellant's desire for a separate office carries very little weight in my view. There is no clear evidence to demonstrate that the operation of the appellant's business, or that of family members, could not take place without the need for a new building. Even if carrying out business within the dwelling causes some level of disturbance to other occupants, I am not persuaded that this should necessarily have a harmful impact on living conditions. In addition, the evidence implies that some working from home may already take place. Thus, there would be no associated benefits in terms of reducing the need to travel.
23. Moreover, this requirement also reflects the very specific personal circumstances and preferences of the appellant. These circumstances may change over time, whereas the building would be permanent. This concern also applies to the apparent need for additional storage over and above what already exists.
24. There would be no enhancement or direct public benefits associated with the development, particularly in terms of the effect on local character. In the context of the appeal as a whole, I find the lack of harm to character and appearance carries only moderate weight in favour of the development.

### **Other Matters**

25. The development would not have any impact on the living conditions of nearby residents. However, a lack of harm in this respect is neutral and weighs neither for nor against the development.

### **Planning Balance & Conclusion**

26. The proposal constitutes inappropriate development in the Green Belt. I have given the harm associated with this substantial weight. There would also be some additional harm through the effect of the development on the openness. As explained above, I have given only moderate or limited weight to the other considerations cited in support of the development. Taken together, these would not clearly outweigh the harm to the Green Belt identified above.

27. Consequently, the very special circumstances needed to justify the development do not exist. The development would therefore be in conflict with EHDP Policy GBR1. For this reason, I conclude that the appeal should be dismissed.

*S J Lee*

INSPECTOR



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## Appeal Decision

Site visit made on 8 January 2020

by **S Shapland BSc (Hons) MSc CMILT MCIHT**

an Inspector appointed by the Secretary of State

Decision date: 6 April 2020

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### Appeal Ref: **APP/J1915/W/19/3236746**

### **Thorley Street Paddock, Thorley Street, Bishops Stortford, 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 M Pegrum (J Day and Son Ltd / Daystone Fireplaces Ltd) against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/0542/FUL, dated 8 March 2019, was refused by notice dated 14 May 2019.
  - The development proposed is erection of a 2 storey business unit (587sq m) with associate access, parking (12 spaces) and landscaping.
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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 the National Planning Policy Framework (the Framework);
- The effect of the proposal on the openness of the Green Belt;
- The effect on the character and appearance of the area; and
- If the appeal development 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 necessary to justify the development.

### Reasons

#### *Inappropriate development in the Green Belt*

3. The appeal site is located within the Metropolitan Green Belt. The Framework, in paragraph 143, states that inappropriate development is, by definition, 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 limited number of exceptions as set out in paragraph 145 of the Framework. One such exception is the limited infilling in villages in paragraph 145 e).

4. The appeal site is a large open paddock located within the village of Thorley Street. The open nature provides a positive contribution to the street scene and open views towards the countryside. The village itself is formed by ribbon of development along Thorley Street. Whilst it is in close proximity to the larger settlement of Bishops Stortford, Thorney Street is a small settlement with limited built development and therefore has verdant and rural characteristics.
5. The Framework and the development plan do not provide a definition of limited infill development. The site is surrounded on two sides by existing development, to the north there is a commercial unit and to the south, beyond an access track is a residential property with allotment gardens to the rear. I accept that the presence of development either side of the appeal site would indicate that the site could be considered infill in a village.
6. Turning to whether this infill could be considered as "limited"; the Oxford English Dictionary defines "limited" as "restricted in size, amount or extent". The appeal site is a large open plot with a frontage to Thorney Street of some 85 metres. As such there is a considerable separation distance between the existing development on either side of the plot. The appeal site is considerably larger than the adjacent plots and as such it does not follow the existing pattern of built development along the street. As such in my judgement, the large frontage and overall size of the appeal site, would go beyond what could reasonably be considered as "limited".
7. The appellant has cited appeals in Stockport<sup>1</sup> and Aspley Guise<sup>2</sup> where the inspector interpreted the definition of infill development. In the first case the inspector found that infilling implied the development of a site that is between existing buildings. In respect of the plot itself, it was between plots of similar sizes and formed part of the wider established built form. My approach to assessment is consistent insofar as the general definition of infill and looking at how the appeal site size relates to the existing pattern of development. However, using my own planning judgement in relation to the facts and observations of this case simply reached a different conclusion.
8. For the Aspley Guise appeal, the infill development constituted small-scale development utilising a vacant plot which should continue to complement the surrounding pattern of development. Whilst in principle this might have some similarities with the case before me, as I have not been provided with the full circumstances of these cases, I cannot be certain that the circumstances are the same.
9. In any event, given the large expansive nature of the appeal site which does not follow the existing pattern of built form it would not appear directly comparable to the conclusions drawn in the cited appeals which are not within East Herts. My findings are based on the observations made during my site visit and the evidence provided as part of this appeal.
10. Accordingly, the proposal would be inappropriate development in the Green Belt as it would not represent limited infilling in a village. It would conflict with Policy GBR1 of the East Herts District Plan 2018 (DP), which seeks amongst other things that development in the Green Belt follows the provisions provided in the Framework.

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<sup>1</sup> APP/C4235/W/18/3194600

<sup>2</sup> APP/P0240/W/17/3185864

### *Openness*

11. 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. The construction of a two-storey commercial unit, including new access and hardstanding would result in built development where there is presently none. The overall scale, bulk and footprint of the building, with accompanying development including the parking of cars in the car park would inevitably lead to a loss of openness. This is particularly the case as the site currently has no buildings or other development present on site.
12. Whilst the site is currently screened when viewed from the road, the proposed building and introduction of a new access junction and parking areas would be clearly visible from a number of locations including the adjacent commercial unit. As such the development would lead to a significant loss of Green Belt openness and would conflict with the Green Belt purpose of limiting the encroachment of development into the countryside.

### *Character and Appearance*

13. The appeal proposal would introduce a stark commercial building into an existing expansive plot. The proposed design of the unit including the use of vertical metal cladding would be utilitarian in nature and not in keeping with the surrounding rural nature of the area. The proposal would include a considerable amount of hardstanding for the turning area for vehicles servicing the proposed building, which would appear as an incongruous addition and urbanise this rural location. Whilst the proposals would maintain a degree of screening from public viewpoints with mature vegetation, the appeal proposals would still be visible from Thorley Street and neighbouring properties including the adjacent commercial unit.
14. I note that the submitted landscape and visual impact assessment<sup>3</sup> submitted as part of the application indicates that additional planting would be provided which would aid in the further screening of the proposal. This includes additional planting on the boundary between the appeal site and the adjacent commercial unit, as well as replacement of any planting lost on the boundary with Thorley Street. However, the proposal would still be visible from both Thorley Street and neighbouring properties and would appear as a stark contrast to the existing verdant nature of the plot. Additional planting would not ameliorate the harm that I have found.
15. I note that whilst there is an existing commercial unit adjacent to the appeal site, it is much smaller in scale than the appeal proposal and is set back further from the highway. By comparison the scale and siting of the proposed commercial building with large amounts of hardstanding would appear as an incongruous addition to the street scene and within the wider rural landscape.
16. As such the proposed development would harm the character and appearance of the area. It would be contrary to policy DES4 of the DP, which seeks, amongst other things that new development is of a high-quality design which reflects and promotes local distinctiveness.

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<sup>3</sup> Landscape and Visual Impact Assessment prepared by Greenlight environmental consultancy dated 15 February 2019



*Other Considerations and the Green Belt balance*

17. The scheme would be inappropriate development in the Green Belt as defined by the Framework. Substantial weight has to be attached to any harm to the Green Belt. The proposal results in a reduction in openness and harms the character and appearance of the area, and significant weight must be attached to this.
18. The appellant's business is currently located in Bishops Stortford, and due to factors outside of their control will need to leave this site in the near future. I have had regard to the evidence from Coke Gearing Chartered Surveyors which outlines the difficulties in finding a new site to relocate the business. From the evidence submitted it is clear that the appellant has been looking for an appropriate premise in the area for some time with little success. The relocation of the business to the appeal site could therefore secure the long-term future of a local business, including retaining a local workforce. I note that there have been third party letters of support for the proposal which supports this assertion. The loss of this business would have the potential to impact the local economy, and therefore I attach significant weight to the economic and social benefits of retaining the business and existing workforce within the general locality.
19. By maintaining a local workforce the appellant has stated that this would reduce the need for vehicular commuting, which would provide an environmental benefit. I acknowledge that several third parties have written in support of the proposals, and indicate the relocation to this site would allow them to walk to the new site. However, as I have been provided with no substantive evidence of the existing workforce and the patterns of commuting by the appellant to the current site in comparison to the appeal site, it limits the weight that I can attribute to this.
20. It has been put to me that the provision of modern machinery within the appeal site would provide environmental benefits as they would use less water than those on the current site and would be more energy efficient. I have not been provided with any cogent evidence to prove this would be the case, so can only attach limited weight to this assertion.
21. The appeal site is located within the setting of the Grade II Listed Building known as 'The Blue House'. As such I have had regard to my statutory duties under S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. I find that the proposed development would be well screened from this listed building by the existing commercial premises adjacent to the appeal site and would therefore not harm the setting of the listed building. Consequently, the appeal proposal would have a neutral effect on the significance of the designated heritage asset. I note that the Council raised no concerns in this regard.
22. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

**Conclusion**

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

*S Shapland*

INSPECTOR



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## Appeal Decision

Site visit made on 10 March 2020

**by D Peppitt BA (Hons) MA MRTPI**

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

**Decision date: 2<sup>nd</sup> April 2020**

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**Appeal Ref: APP/J1915/W/19/3243681**

**The Tractor Store, Elbow Lane Farm, Elbow Lane, Hertford Heath, Herts SG13 7QA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
  - The appeal is made by Ladkarn Holdings Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/1437/ARPN, dated 8 July 2019, was refused by notice dated 4 September 2019.
  - The development proposed is the change of use from Agricultural to Class C3 residential to provide 1 larger dwelling house.
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### Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for change of use from Agricultural to Class C3 residential to provide 1 larger dwelling house at The Tractor Store, Elbow Lane Farm, Elbow Lane, Hertford Heath, Herts SG13 7QA in accordance with the application Ref 3/19/1437/ARPN made on 8 July 2019 and the details submitted with it.

### Main Issue

2. The main issue is whether the proposed change of use constitutes permitted development pursuant to Schedule 2, Part 3, Class Q of the GPDO.

### Reasons

3. The appeal site is a building on Elbow Lane Farm, which comprises a mixture of agricultural, residential and equestrian buildings. The building is called the Tractor Store and it is a steel portal framed 'Atcost' style barn, with timber frame and weatherboard exterior and has three entrance bays. There are three separate Land Registry Titles covering the areas around Elbow Lane Farm and the site falls under title number HD413875. It also falls within the agricultural land holding number 18/163/0007. The appellant has stated that the building is used for the storage of tractors and other agricultural machinery, feed and hay storage for cattle and sheep and shelter for lambing, sheering, and worming, some of which I observed on my site visit. The proposed development would convert the existing building into a single dwelling house.
4. The Council has suggested that the building was not in agricultural use on 20 March 2013, and therefore, does not benefit from the change of use

afforded by the GPDO. The Council has stated that the Tractor Store building was not shown as entirely enclosed on planning applications relating to other matters on the wider farm site between 2003 and 2010. However, if these applications did not specifically relate to the Tractor Store, it would not have been necessary to show this structure within any associated plans.

5. The appellant suggests that the building has been in place since 2005, when a steel portal framed 'Atcost' style structure was erected above the former concrete midden walls. As this had been in place as part of the previous animal testing facility on the site. The appellant has provided a photograph, which shows that a building was in place in 2005.
6. The land adjacent to the Tractor Store was subject to a lease for the East Herts Equestrian Centre. However, the Tractor Store was not subject to this lease. The appellant has submitted a letter from the former Equestrian Manager who states that the Tractor Store was not used in association with the adjacent equestrian business and has always been used for agricultural purposes.
7. The appellant has submitted various correspondence from the Council's Revenue and Benefits Team, which indicates that the building has not been included as part of the Business Rates Valuation schedule for the site. Whilst a lack of valuation does not necessarily mean the proposal has been used for agricultural purposes, it would appear that the site has had numerous visits by officers in which the building could have been given a rateable value if this was deemed necessary.
8. The Council has suggested that the design and layout of the Tractor Store would only offer limited turning space for large vehicles and machinery and that the doors are limited in height. Although the appellant has provided a profit and loss account of farm expenses for 2013 and 2014, the Council suggests there are no direct invoices associated with the building or photographic evidence of the building in use. Nevertheless, despite these factors it does not necessarily mean that the store has not been used for agricultural purposes.
9. I have considered the evidence provided by the appellant, and on the balance of probabilities, I consider that the building has been in use for agricultural purposes on 20 March 2013 and has been used continuously for agricultural purposes since that time. The proposal therefore complies with the criteria of Class Q.1. and an assessment of the conditions under Class Q.2 also indicates that the Council is satisfied that matters relating to Transport & Highways; Noise impacts; Contamination risks; Flooding risks; design and external appearance, and whether the siting is not impractical are all acceptable.
10. The proposal otherwise meets all the criteria and conditions of Class Q and Prior Approval should, therefore, be granted for the change of use proposed.

### **Conditions**

11. Section W (13) of the GPDO allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
12. The Council has suggested that there should be a condition requiring the submission of a Bat Survey prior to commencement of the development. However, I have considered the response provided by Hertfordshire Ecology,

which states that the structure is sub-optimal for roosting bats and that the likelihood of bats roosting within this structure is not high enough to warrant a survey. Therefore, I consider that this condition is unnecessary and fails to meet the tests set out in paragraph 55 of the National Planning Policy Framework.

**Conclusion**

13. For the reasons given above, I conclude that the appeal is allowed.

*D Peppitt*

INSPECTOR



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## Appeal Decision

Site visit made on 28 January 2020

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 April 2020

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**Appeal Ref: APP/J1915/W/19/3242050**

**Poultry Barn, Monks Green Farm Ltd, Mangrove Lane, Hertford, Herts SG13 8QL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr William Ashley (Monks Green Farm Ltd) against the decision of East Hertfordshire District Council.
  - The application Ref 3/19/1936/ARPN, dated 20 September 2019, was refused by notice dated 14 November 2019.
  - The development proposed is the change of use of agricultural building to C3 (residential) for 5 dwellings.
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### Decision

1. The appeal is dismissed.

### Application for costs

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

### Procedural Matters

3. I have used the description of development from the Council's decision notice as this is more succinct to describe the proposal.

### Background and Main Issues

4. Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (the GPDO) permits the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order<sup>1</sup>. Class Q(b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above.
5. In this case, the Council contends they do not consider the appeal building to be one which is connected with agriculture. Although the building has previously been used as a poultry rearing barn for chickens, this use ceased in 2012 prior to 20 March 2013. The building is currently vacant and has in the interim period of seven years, whether temporary or permanent in nature been

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<sup>1</sup> The Town and Country Planning (Use Classes) Order 1997 (as amended)

used for other uses and not for the purposes of agriculture. Furthermore, notwithstanding the above, the Council does not consider the proposal would meet the cumulative limitations, as set out in the GPDO for larger, smaller dwellings and total floorspace for dwellings. Although not a reason for refusal, the Council also suggests that it would not meet Class Q.1(d) on the number of separate dwellings within an established agricultural unit.

6. Therefore, the main issues are:

- whether the proposed change of use constitutes permitted development pursuant to Class Q.1(a) of the GPDO; and
- whether the cumulative number of separate dwellings and floor space of the existing building or buildings changing use is within the limitations, pursuant to Class Q.1(b), (c) and (d).

### **Reasons**

7. The appeal site is a redundant poultry building constructed of a modern steel frame with block work, insulated metal cladding walls and composite roof panels with concrete flooring. The proposal is for the conversion of the building to residential accommodation consisting of five dwellings.

#### *Whether permitted development under Class Q.1(a)*

8. The limitations set out in Class Q.1(a) of the GPDO do not permit development if the site was not used solely for an agricultural use as part of an established agricultural unit (i) on 20 March 2013, or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use.
9. The appeal site building has a historical agricultural use, of which the Council contends was up to 2012 when the use ceased, based on their own planning records and that of other third-party representations. These suggest that the building during this period has been used for other non-agricultural purposes 'other car sales business' and a B8 storage use or other commercial enterprise, be that the whole or part of the building. No detailed evidence has been submitted of historic planning records, but these are referenced in the officer's report and within the planning history section.
10. The GPDO, paragraph W<sup>2</sup> (10)(a), requires that when determining applications, the local planning authority must take into account any representations made to them as a result of any consultation undertaken. Third party representations have been provided as part of this appeal which include a copy of an enforcement notice and other sourced information relating to the site. I acknowledge that this in part, relates to the 'poultry sheds' and not the 'poultry house', the subject of this appeal. There also appears to be some historical personal dispute between the appellant and the third parties, of which is not a planning consideration. Nonetheless, this evidence includes an online listing and photograph of the inside of the appeal building and shows it was used for other purposes during a timeframe of 2012 to 2014, including storage of vehicles and a car sales business.

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<sup>2</sup> W.- Procedure for applications for prior approval under Part 3

11. The appellant's design and access statement states *'the building was erected to rear poultry which ceased in later 2013 following notice being given by the supplier in 2012'* it goes on to say *'With the poultry contract drawing to an end, other uses were explored but these were not financially viable, and the size of the barn limited other uses'*. It claims that since then the building has been in use for agricultural storage of mowers, digger and general agricultural equipment.
12. The appellant has provided further evidence, which includes agricultural holding numbers and a letter from their accountant<sup>3</sup> confirming that there are two businesses on the site and both agricultural trading entities. It sets out that Monks Green Farm Ltd was the poultry enterprise and that the businesses at the site have been in existence and operated for over 50 years. The information on the accounts is non-specific to the appeal building, it does not demonstrate that an agricultural use has taken place, only that annual returns have been met and as indicated in the appellants evidence there are many business's at Monks Green Farm. Moreover, the accounts are only one single factor and not decisive as to whether the activities constitute a trade or business<sup>4</sup>, that being the agricultural use.
13. A further letter is provided from P.D. Hook (Rearing Ltd), of which is not dated. This advises that a poultry contract was in place with the appellant who reared broiler breeders and lasted over many years with the renewal of an established annual contract.
14. Evidence relating to the enforcement matters at the site is limited. It is not clear when the Council started to investigate these matters and exactly which part of the site or which building this refers to in the absence of further evidence<sup>5</sup>. Whilst the letters indicate that a poultry business was run on the site, within the appeal building, there is no evidence as to over what period of time the building was used for the purposes of agriculture or exactly when this ceased.
15. I saw at the time of my site visit, the building itself was generally empty and although there was some evidence of equipment being stored including machinery and vehicles, it was also evident that it was used for domestic and general storage of items and the continuing agricultural use as described by the appellant was not quantified. Moreover, the evidence before me must demonstrate that the site/building has been solely used for agriculture on the specified dates. If the site, building or land is in a mixed use, meaning that it is put to one or more primary uses, permitted development rights will not apply. As such, taking into account my observations and the evidence received, I am not convinced that the building has not been in continuous agricultural use, or that its last use was for such purposes.
16. The appellant has raised concerns in respect of the Council's handling of the application, be that as it may, it would be a matter for the Council at that time if they required further evidence. However, in the GPDO, paragraph Q.2. clearly sets out what the developer must submit and in paragraph W.(3) advises that an application may be refused, where in the opinion of the local planning authority the developer has provided insufficient information to

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<sup>3</sup> Wilson Devenish Chartered Accountants & Business Advisors: Reference MON001/2018.05.03, dated 3 May 2018

<sup>4</sup> South Oxfordshire DC v SSE & East [1987] JPL 868

<sup>5</sup> Email From: Paul Dean: Date sent: Tuesday 22, 2014 10:22 AM



establish if the proposals comply with any conditions, limitations or restrictions specified as being applicable in that class.

17. On the basis of the evidence before me, insufficient evidence has been provided to demonstrate that on the balance of probability the building was solely in agricultural use, Class Q.1(a)(i), (ii) on 20 March 2013 or when it was last in use before this date. I cannot be satisfied that the proposal is permitted development and as such I must find it is not. Therefore, the proposal would not comply with the express terms of permitted development set out in Schedule 2, Part 3, Class Q of the GPDO, particularly paragraphs Q.1.(a).

*Whether permitted development under Class Q.1.(b), (c) and (d)*

18. The Council maintain even though there are two agricultural holdings on the land these are for the purpose of a rural payment agency. They consider actively and historically there is only one established agricultural unit including the appeal and wider site of Monks Green Farm, regardless of the separation of site management. The appellant disagrees with the Council's assessment that it should be considered that each is its own entity, and there are two separate established farming enterprises for the purposes of the cumulative calculations set out in the limitations of Class Q.1(b), (c) and (d).
19. The GPDO makes reference only to there being an established agricultural unit, but sets out the definition, which means agricultural land which is occupied as a unit for the purposes of agriculture, including: (a) any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit, or (b) any dwelling on that land occupied by a farmworker.
20. For the purposes of Part 3, Paragraph X of the GPDO only requires that the land is occupied as an agricultural unit at the particular point in time as specified in the relevant Class. The requirement that the agricultural unit be 'established' on a particular date is not a requirement that the unit is established for a given period prior to the date and there is no requirement for the established agricultural unit to be of a particular size. Whilst the purpose of the agricultural holdings certificate would be to ensure that anyone with an agricultural tenancy is notified of a planning application, it is not evidence of the use of land or any buildings as 'agriculture', or whether the land is part of an 'agricultural unit'.
21. It was established in Case Law that an agricultural unit is not the same thing as the planning unit and may comprise more than one planning unit<sup>6</sup>. Neither is it necessary for the occupier to own the agricultural land in order for it to form a unit, however there should be some association/ownership of which the appellant confirms, albeit in different company names. Furthermore, the separation of parcels to other uses within the unit do not discount it from being an 'established agricultural unit'. It is therefore a matter of fact and degree, but from the evidence before me, I consider that there has been a clear association between the two parcels of land, based on the historic activities of the site, and that there were and has been regular sharing of activities of an agricultural use, which would lead me to the conclusion that there is one established agricultural unit for the purposes of Class Q.1.

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<sup>6</sup> Fuller v SSE and Dover DC [1987] JPL 854

22. Class Q.1(b)(i)(aa) of the GPDO prevents development under Class Q within an established agricultural unit if the cumulative number of separate larger dwellings developed exceeds 3 or (bb) the cumulative floor space of the existing building or buildings changing use to a larger dwelling or dwelling exceeds 465 square metres (sqm). In the case of smaller dwellings Class Q.1(c)(i)(aa) prevents the cumulative number exceeding 5; or (bb) the floorspace of any one separate smaller dwellings exceeding 100 sqm.
23. The proposed development would include one larger dwelling and in combination to the previous developments<sup>7</sup> at the established agricultural unit would result in a cumulative total of four larger dwellings. The floor space of the proposed larger dwelling would be 453 sqm, by combing this with existing development the cumulative floor space would be 855 sqm. The proposed development would therefore not meet the criterion (aa) or (bb) of Class Q.1(b)(i).
24. The proposals also include four smaller dwellings, these would not individually exceed the number but combined with the previous development for two smaller dwellings<sup>8</sup> would result in a total of six exceeding the limitation of five. However, the floorspace of any one of the separate smaller dwellings would not exceed 100sqm. As such, the proposed development would not meet the criterion of Class Q.1(c)(i)(aa). Furthermore, the cumulative number of separate dwellinghouses (together with any previous development under Class Q) would result in a total of ten dwellings, which again would not meet the criteria set out in Class Q (d)(ii).
25. Notwithstanding, that I have found, based on what has been presented to me, the building was not in agricultural use on either the prescribed date or when last used and fails to demonstrate compliance with Class Q.1(a) of Part 3, Schedule 2 of the GPDO. It would neither comply with the limitations as set out in Class Q.1(b), (c) or (d). As such the proposed development does not constitute permitted development.

### **Other Matters**

26. I understand other developments have been granted prior approval by the Council under Class Q in the area. I have been provided with limited details of them, although there may be some similarities. The appellant suggests that the Council have been inconsistent and made inaccurate assertions, but these do not affect the precise circumstances of the appeal scheme. I have also had regard to an appeal decision which has been brought to my attention<sup>9</sup>, but the individual circumstances of that case differ from the proposals before me, whilst it was dismissed for not being permitted development under Class Q.1(a). In any event, the appeal needs to be determined on its individual merits on the basis of the evidence before me.
27. Given my conclusion above, there is no need for me to consider the further prior approval matters of transport and highways, noise, contamination, flood risk, impractical or undesirable location and the design or external appearance, as it would not alter the outcome of the appeal.

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<sup>7</sup> 3/15/0236/PR and 3/215/1775/ARPN

<sup>8</sup> 3/18/1905/ARPN

<sup>9</sup> APP/J1915/W/16/31244108

**Conclusion**

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

*K A Taylor*

INSPECTOR



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## Costs Decision

Site visit made on 28 January 2020

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 April 2020

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### **Costs application in relation to Appeal Ref: APP/J1915/W/19/3242050 Poultry Barn, Monks Green Farm Ltd, Mangrove Lane, Hertford, Herts 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 (Monks Green Farm Ltd) for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of the to grant prior approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England ) Order 2015 (as amended) for the change of use of agricultural building to C3 (residential) for 5 dwellings.
- 

### **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. The application for a full award of costs is on the basis that the Council have not provided evidence in either their delegated report or appeal statement and only refer to Council records. The applicant suggests that the officer did not respond or acknowledge the e-mails sent, which requested the evidence of the Council's records and as such the officer's reasons for refusal are based solely on opinion and have caused unnecessary expense in the search to provide their own records. Furthermore, the applicant considers that the Council is inconsistent with their approach to determinations of the Town and Country Planning General Permitted Development (England) Order 2015 (as amended) Schedule 2, Part 3, Class Q applications (the GPDO).
4. The Council did not explicitly reference the letters submitted by the applicant and whilst they say the contents of the documents is included in the officer's reports, the applicant says that the information was not acknowledged. From the information before me it does not appear that the Council ignored the information but moderated the weight attached to them in light of other conflicting evidence. The details of this are explained in the Council's statements. Whilst, the officers report clearly sets out the planning history of the site, including application references, proposals, decision and dates, it also sets out a description of the site and its surroundings, which has likely been

- from their assessment and own judgement following the site visit, of which they are entitled to do so.
5. However, the Council maintain that without such evidence to the contrary the onus is on the applicant to prove beyond all reasonable doubt that the building was in agricultural use at the specified time required by Q1.(a) of the GPDO. The correct test is the balance of probability. Nevertheless, as the decision for the case did not solely turn on this point, I am of the view that the Council's error would have not led to a different conclusion for the appeal scheme. The appeal was inevitable given the disagreement between the main parties regarding whether the proposals constituted permitted development.
  6. Whilst the applicant says the Council was of the view that the building and appeal site was part of one established agricultural unit as they had accepted agricultural holding numbers, at the time of the planning application, this is not borne out in the evidence. In the officer reports the Council makes specific reference to Q.1 (b) and (c) of the GPDO and assessed the proposal on the criteria of the GPDO. There is therefore little before me to suggest that the Council misinterpreted the GPDO in terms of the definition of an established agricultural unit.
  7. The applicant has also referred to other prior approvals, I have not been provided with any substantive evidence that the Council determined the application in a less than consistent manner than any others, in any event, each application would have been determined on its own individual merits and supported evidence.
  8. I appreciate that the applicant has engaged with the Council prior to the determination in the email correspondence (Email Chain 1), it appears to me that it is a response to comments that have been received rather than a request for all Council planning records on the appeal site. The matter of requesting a Freedom of Information (FOI), bears no weight and would be the choice of the applicant if he wished to pursue this option.
  9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

*KA Taylor*

INSPECTOR

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PLANNING APPEALS LODGED April 2020  
Head of Planning and Building Control

Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Procedure
3/19/0331/LBC	Replacement of windows to front, side and rear elevations. Replacement of 2 no. doors to rear elevation.	Knoll FarmStandon Green EndHigh CrossWare SG11 1BP	Refused Delegated	27/04/2020	Written Representation
3/19/0410/LCL	Replacement of windows to front, side and rear elevations.	Knoll FarmStandon Green EndHigh CrossWare SG11 1BP	Refused Delegated	28/04/2020	Written Representation
3/19/1148/FUL	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.	The White Horse InnHigh RoadHigh CrossWare SG11 1AA	Refused Delegated	23/04/2020	Hearing
3/19/1149/LBC	Refurbishment and change of use of The White Horse public house (listed building), to create 3no. two bedroom dwellings.	The White Horse InnHigh RoadHigh CrossWare SG11 1AA	Refused Delegated	23/04/2020	Hearing
3/19/1503/VAR	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 bedroomed dwellings, three 4 bedroomed dwellings, one 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 - Revised proposal to the agricultural barn, resulting in retaining and reusing instead of demolition.	Bury Farm CottageGreat HorneadBuntingford SG9 0NS	Refused Delegated	24/04/2020	Written Representation
3/19/1760/FUL	Erection of agricultural building, erection of 1 metre height timber fencing and provision of hardstanding.	Land Adjacent To Rectory FarmLangley LaneMeesdenBuntingford SG9 0AZ	Refused Delegated	22/04/2020	Written Representation
3/19/1991/HH	Single storey rear extension.	26 Drury LaneHunsdonWare SG12 8NU	Refused Delegated	22/04/2020	Written Representation
3/19/1992/LBC	Single storey rear extension. Demolition of wall to rear and door height raised for access to extension.	26 Drury LaneHunsdonWare SG12 8NU	Refused Delegated	22/04/2020	Written Representation
3/19/2003/FUL	Erection of new dwelling with separate garage associated landscaping and creation of new driveway.	Land Opposite 44-58 Chapel LaneLetty GreenHertford SG14 2PA	Refused Delegated	22/04/2020	Written Representation
3/19/2157/FUL	Erection of single garage.	Land Adj To Residential Parking Area AshdaleBishops Stortford	Refused Delegated	27/04/2020	Written Representation
3/19/2242/HH	Construction of part single storey / part two storey rear extension and 1 side dormer window.	10 Brickendon GreenBrickendonHertford SG13 8PB	Refused Delegated	22/04/2020	Fast Track
3/19/2281/FUL	Demolition of commercial unit (B8 use) and other outbuildings and erection of nine dwelling houses, creation of 23 parking spaces and associated external works.	The OaksFactory Rear Of Ginns RoadStocking PelhamBuntingford SG9 0JD	Refused Delegated	28/04/2020	Written Representation
3/19/2285/FUL	Demolition of outbuildings. Erection of detached one bedroom bungalow, to include creation of new access and 4 additional parking spaces.	Corner Cottage10A Brickendon GreenBrickendon SG13 8PB	Refused Delegated	29/04/2020	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
3/19/0049/CLXU	June Pagdin	Home FarmMunden RoadDane EndWare SG12 0LL	To confirm the lawful use of buildings for employment purposes, comprised of: Building A2 for commercial storage (Use Class B8); Building A3 for furniture restoration (Use Class B1(c)); Building A4 for commercial storage (Use Class B8); Building B1 for auto repairs business (sui generis); Building B2 for commercial storage (Use Class B8); Building D for the use as music studio (Use Class B1); Building F for the storage of vehicles in connection with auto repairs (sui generis); Building G for commercial storage (Use Class B8); Building H for commercial storage (Use Class B8) and Building I for commercial storage (Use Class B8).	VALID	Hearing	TBA
3/19/0475/CLXU	Bruce O'Brien	Caretakers FlatSt Augustine CourtWharf RoadBishops Stortford CM23 3GE	Use of the caretaker's flat as a single dwelling.	VALID	Hearing	TBA
3/19/1148/FUL	Eilis Edmonds	The White Horse InnHigh RoadHigh CrossWare SG11 1AA	Refurbishment and change of use of The White Horse public house (listed building), to create 3no. two bedroom dwellings, together with the construction of 4no. three bedroom dwellings with associated parking.	INPROG	Hearing	TBA
3/19/1149/LBC	Eilis Edmonds	The White Horse InnHigh RoadHigh CrossWare SG11 1AA	Refurbishment and change of use of The White Horse public house (listed building), to create 3no. two bedroom dwellings.	INPROG	Hearing	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.	LODGED	Hearing	TBA
3/19/2099/FUL	Nick Reed	Land Adj To Long Leys BarnFanshaws LaneBrickendonHertford SG13 8PG	Site to contain one static caravan, with parking for two vehicles and associated infrastructure (retrospective).	VALID	Hearing	TBA
3/19/2619/CLXU	June Pagdin	Home FarmMunden RoadDane EndWare SG12 0LL	Established B8 employment use within Building H at Home Farm for a period exceeding 10 years.	VALID	Hearing	TBA
3/19/2620/CLXU	June Pagdin	Home FarmMunden RoadDane EndWare SG12 0LL	Established use of Building I for B8 use over a period exceeding 10 years.	VALID	Hearing	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	297										

<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%											<b>Major %</b>	<b>60%</b>	<b>60%</b>
<b>Minor %</b>	92%	93%											<b>Minor %</b>	<b>80%</b>	<b>65%</b>
<b>Other %</b>	92%	92%											<b>Other %</b>	<b>90%</b>	<b>80%</b>

<b>Appeals</b>	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	2										
Number Allowed against our refusal (Monthly)	1	2										

Total number of appeal decisions (Cumulative)	4	6										
Number Allowed against our refusal (Cumulative)	1	3										

**AGENDA ITEM NO. 6D**

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