



Appeal Decision

Site visit made on 12 October 2011

by **Paul Jackson B Arch (Hons) RIBA**

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

Decision date: 3 November 2011

Appeal Ref: APP/J1915/A/11/2152999

Grehan House, 57 Molewood Road, Hertford SG14 3AQ

- 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 Grehan Contractors Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/10/1578/FP, dated 31 August 2010, was refused by notice dated 16 November 2010.
 - The development proposed is demolition of existing buildings and construction of 9 x 2 and 3 bed private terrace dwellings and associated external works including restoration of riverbank and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are as follows:
 - Whether the proposed development would preserve or enhance the character or appearance of the Hertford Conservation Area, having regard to the pattern of development in the area and the river valley;
 - Whether the proposed development would conform to local development plan policies on employment sites; and
 - Whether the proposal is in accordance with the policies set out in the local development plan and PPS25 in terms of minimising flood risk.

Reasons

Character and appearance

3. The appeal site comprises a builders yard north of the centre of Hertford which lies off a residential road in the Beane river valley, where the river describes a pronounced 'S' curve. The immediate area is characterised mainly by a flat low lying meadows on both sides of the river to the west and by rows of houses of varying dates and design rising up a hillside to the east. Beyond the river the land rises to a well vegetated railway embankment and although there is built development beyond, it is not visible. The houses are separated by well planted gardens of increasing depth stepping up the hill. The rear gardens of those in Molewood Road back onto the field, blurring the distinction between built development and the meadow. The overall impression is of a pleasant residential enclave growing out of and looking on to a rural environment.

4. The site contains a few single storey utilitarian buildings and shelters used for storage and administration, surrounded by a brick wall which partly runs along the river bank. It extends well to the rear of development in the adjacent residential street Molewood Road which is lined with Victorian terraced dwellings and a few semi-detached houses.
5. In the most frequently seen view of the site across the field from Beane Road, the brick wall around the site appears as a somewhat jarring element. There is no dispute that the site, which is previously-developed land, is suitable for residential development. Conservation Area consent has been granted for demolition of the existing buildings.
6. The modest houses in Molewood Road along the bottom of the valley are mostly 2 storeys. Where a third floor has been introduced it tends to be in the roof space with rooflights. Although there are houses in the vicinity with 3 or more storeys these are further up the slope and take advantage of the falling ground, often by having floors below street level. They are not particularly prominent or high features of the townscape. In contrast, the proposed 4 storey block (3 storeys with rooms in the roof) of the appeal development would be readily visible and a conspicuous feature, firstly because of its significantly greater height above the Molewood Road dwellings and secondly because it would not be sited on a slope but on the flat floor of the river valley and rather disassociated from neighbouring development. Moreover, it would be a focal point in the vista up the river valley from the river bridge on Beane Road.
7. As such, it would form a poor and abrupt transition between the nearby residential area and the tranquil riparian valley bottom. The harsh nature of this interface would be further enhanced by the plain flank walls and the small amenity space allocated to each property which would not be in keeping with the more generous gardens of nearby dwellings. The provision of a larger 'community space' is acknowledged but this would not be apparent seen across the meadow and in this view the meagre, fenced off private amenity areas of plots 1-5 would be plainly visible and urban in character.
8. There is little to object to in the principle of the proposed terraced form, the pitched roofs, modern window fenestration and the chosen materials, all of which would be sympathetic to the varied residential environment in Molewood Road and surrounding streets. The removal of the brick wall and the improvement of the river banks are significant factors in favour. However these considerations do not compensate for the plain bulk and height of the proposed block of 4 dwellings which would dominate the river valley and detract from the character and appearance of this part of the conservation area; and the cramped siting. The density would be only slightly less than surrounding development but that is not a persuasive argument in favour, where the site is in a sensitive location in the bend of a river in distinctly rural surroundings. I conclude that the proposed development would not preserve or enhance the character or appearance of the Hertford Conservation Area, conflicting with the aims of the relevant parts of policies ENV1 and BH6 of the East Herts Local Plan Second Review of 2007 (LP).

Employment sites

9. Policy EDE2 of the LP advises that outside the identified employment areas, development that would cause the loss of an existing employment site will only

be permitted if, amongst other things, the retention of the site or premises has been explored fully without success, evidence of which must be provided. There is no evidence of marketing of the site which supports 28 jobs. Although located in an area surrounded by dwellings and with relatively narrow road access, the site functions as a contractor's depot without any complaint from nearby occupiers. Whilst deliveries by large vehicles might cause difficulties from time to time, this does not seem to be a strong justification for abandoning employment use when mixed use is encouraged in areas easily reached by public transport. The road is congested with parked cars due to commuters to the nearby station but sufficient room remains to manoeuvre larger vehicles. It is not apparent that there are no other types of employer who would be attracted to the site who would not need commercial vehicle access. Nor is it clear that the site is unsuitable for employment development; or that continuing use of the site for employment is inappropriate. The Council's Employment Land Policy review suggests that there is a scarcity of potential new employment locations and an increasing need for employment land up to 2021.

10. The lack of any marketing evidence significantly weakens the appellants' case for housing development in place of an active employment site. Given the appellant company's commercial ambitions, it is not seriously credible that such evidence could not be obtained without risk of misinterpretation as to their financial health. The individual circumstances of the appellant company should have little bearing on the wider objectives of employment policy; and the suggestion that housing development is necessary on an existing employment site in order to finance a move to larger premises carries little weight.
11. Whilst it is true that the existing use could take place for 24 hours a day which could have adverse consequences for residential amenity and the environment, that is not currently the case; and controls exist in environmental health legislation to protect the interests of local residents and prevent pollution.
12. I do not find that figures demonstrating 234 000 square feet of vacant industrial floorspace in Hertford/Ware a convincing factor in favour of the scheme. There may be many reasons for space being vacant and if nothing else, it suggests that the appellant company would not have undue difficulty relocating to larger premises without the need for change of use in Molewood Road.
13. I conclude on this issue that it has not been shown that the loss of the site for employment is properly justified. The development would conflict with the employment site protection aims of policy EDE2 of the LP.

Flooding

14. Having regard to national advice in Planning Policy Statement (PPS) 25 *Development and Flood Risk*, the built part of the site lies within Flood Zone 2 (medium probability). Dwelling houses fall into the flood risk vulnerability classification of 'more vulnerable' in table D.2 of Annex D to the PPS. The appellant company has carried out a Flood Risk Assessment. Whilst the Council has carried out a Strategic Flood Risk Assessment this does not provide site specific guidance. According to table D.3 of PPS25, residential development is appropriate in Flood Zone 2. However, a sequential approach should be applied to demonstrate that there are no reasonably available sites in areas

with a lower probability of flooding that would be appropriate to the type of development, giving preference to locating new development in Flood Zone 1.

15. As discussions took place between the Council and the appellant company on the appeal proposal, a number of alternative sites were put forward by the Council as sequentially preferable. As time went on, for one reason or another, these were discounted as either having already received planning permission, not being deliverable, or not being similar in scale and appropriate for the type of development proposed. Although it is likely that sites will become available from time to time that will be preferable in flood risk terms, it seems to me that development of the appeal site, if all other matters were acceptable, should not be held up for this reason. The Environment Agency does not object, subject to conditions. The risks that pertain in respect of flooding are not shown to be so serious as to outweigh the benefit of redevelopment for housing. As such, the proposal would not conflict with the flood protection aims of national policy contained in PPS25.

Conclusion

16. Local occupiers in Molewood Road would notice a change in their outlook but the development would not have an unacceptable impact on natural light received, nor would it be unreasonably overbearing. The consultation undertaken by the appellant company with the Council is acknowledged including the advice that a 'mill-like' type of scheme, such as might be seen in other waterside locations, may be appropriate; but the appeal scheme would have very few of the qualities that a mill conversion would have. There is a need for additional housing land to be made available and I have taken account of the significant weight that should be attached to the Government's key proposals to rebuild the economy set out in the 'Plan for Growth'. However none of the merits of the proposal, singly or cumulatively, outweigh the unacceptable harm to the character and appearance of the area that would occur and the loss of an employment site. I have had regard to all the other matters raised, but do not find anything that alters or outweighs the conclusion I have reached that the appeal should be dismissed.

Paul Jackson

INSPECTOR



Appeal Decisions

Hearing held and site visit made on 26 October 2011

by **B S Barnett BA MCD MRTPI**

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

Decision date: 18 November 2011

Appeal A. Ref: APP/J1915/X/11/2153163

The White Cottage, Latchford, Standon, Hertfordshire, SG11 1RB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr F Hardinges against the decision of East Hertfordshire District Council.
- The application Ref 3/10/1691/CL, dated 24 September 2010, was refused by notice dated 16 November 2010.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is *demolition of existing conservatory and single storey extension on rear elevation and erection of a replacement two storey extension.*

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

Appeal B. Ref: APP/J1915/X/11/2153165

The White Cottage, Latchford, Standon, Hertfordshire, SG11 1RB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr F Hardinges against the decision of East Hertfordshire District Council.
- The application Ref 3/10/1688/CL, dated 24 September 2010, was refused by notice dated 16 November 2010.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is *demolition of two storey extension to principal elevation and erection of a replacement two storey extension.*

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

Appeal C. Ref: APP/J1915/A/11/2152982

The White Cottage, Latchford, Standon, Hertfordshire, SG11 1RB

- 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 F Hardinges against the decision of East Hertfordshire District Council.
- The application Ref 3/10/1692/FP, dated 24 September 2010, was refused by notice dated 16 November 2010.

- The development proposed is *demolition of existing dwelling and erection of a replacement dwelling*.

Summary of Decision: The appeal is dismissed.

APPEALS A AND B

1. These Appeals relate to the erection of two storey extensions on opposite sides of the original part of a house following demolition of extensions erected some time ago.
2. The house has a mansard roof and the extensions would have similar roofs, the ridge lines of which would be at right angles to the ridgeline of the house. The roof of each extension would be joined into the roof of the house so that, in each case, the result would be a single T-shaped roof structure.
3. Article 3(1) of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GPDO) grants planning permission for certain forms of development. Schedule 2 Part 1 defines permitted development in relation to dwellings. Three classes are of relevance to these appeals – Class A: the enlargement, improvement or other alteration of a dwellinghouse; Class B: the enlargement of a dwellinghouse consisting of an addition or alteration to its roof; and Class C: any other alteration to the roof of a dwellinghouse.
4. The main issue to be considered is the extent to which these Classes apply to the proposals before me. In considering this, I have had regard to Technical Guidance¹ published by the Department of Communities and Local Government.

Interpretation and meaning of Classes A, B and C

5. Development is not permitted by Class A if it would consist of or include an alteration to any part of the roof of the dwelling house. The Council argue that, because of this, in each case the entire new roof structure, including that needed to join the roof above the extension to that of the house, falls outside Class A. Were this the case, it would fall within Class B and there is no dispute that in respect of each of the proposals before me the volume involved would exceed 50 cu m, so the development would not be permitted by that Class. However, I consider that the Council's interpretation of the GPDO is inconsistent with the Technical Guidance.
6. This says, on page 7, that where a two storey extension has a roof that joins onto the main roof of the original house the works will need to meet the requirements of both Class A and Class C. I take this to mean that all the new volume created by the development, up to the point where it joins the existing roof of the house, should be treated as an enlargement of the house which does not, in itself, alter the roof of the house. The only work altering the roof of the house would be that needed to join the two structures together – the removal of tiles and felt, strengthening and joining of woodwork, the creation of valley gutters, etc., and this would fall within Class C.
7. The Technical Guidance also says that if the works include the creation of a dormer window, either in the extension or the original roof space, they would also need to meet the requirements of Class B. I consider that only the

¹ Permitted Development for Householders: August 2010

additional volume created by dormers projecting from the main roof would fall to be assessed under Class B. There is no dispute that, in respect of both proposals before me, the dormers, considered in this way on their own, would meet the requirements of, and be permitted by, Class B.

8. I do not accept the Council's argument that where there are to be dormers all the roof structure should be assessed under Class B. The Technical Guidance clearly implies that in such cases Classes A, B and C would all be relevant.
9. I conclude that, in respect of each of the proposals before me, all the work creating additional volume other than the installation of projecting dormers should be assessed under Class A. The projecting dormers should be assessed under Class B. The work required to join the new structure into the roof of the original house should be assessed under Class C.
10. This conclusion is consistent with three further parts of the Technical Guidance. Page 28 refers to an extension under Class A that includes work which requires an alteration to the existing roof of the house (e.g. where the roof of the extension joins the existing roof). This implies that all the extension, including all of its roof up to where it joins the existing roof, would be in Class A. Page 31 has an illustration of a form of development which might be permitted by Class A. It shows a ridged roof extension joining onto the original roof of a house and clearly implies that all the additional volume to be created should be assessed under Class A. Page 37 gives guidance about the application of Class C in circumstances where the roof of an extension that is permitted under Class A is joined to the roof of the original house. It clearly implies that where the roof structure of an extension joins onto the original roof it should be assessed under class A, not Class B.
11. It is also consistent with an appeal decision brought to my attention by the appellant (APP/C1950/X/10/2137203). I acknowledge that it is inconsistent with two decisions (APP/G2245/X/10/2131822 and APP/W1525/X/10/2128104) brought to my attention by the Council, but in my view these were inconsistent with the Technical Guidance and wrongly decided.

Application of Classes A, B and C to the proposals

12. The dispute between the parties centred on how Classes A, B and C should be interpreted and applied. There was agreement about most other relevant matters.
13. In respect of both Appeals, it was agreed that, if the Classes were applied as I have concluded, in paragraph 9 above, that they should be applied, all the relevant limitations and conditions applicable to these Classes would be satisfied. I have no reason to disagree.
14. It is a condition of both Class A and Class B permitted development that any upper floor window located in the wall or roof slope forming a side elevation of the dwelling house shall be obscure glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. It is not open to me to attach conditions to an LDC but I take the appellant's assurance that this condition would be satisfied as an invitation to amend his proposals so that the developments would meet the condition.

15. Subject to this amendment I conclude, in respect of both of the proposals before me, that all the works creating additional volume other than the installation of projecting dormers would be permitted development under Class A; that construction of the projecting dormers would be permitted development under Class B; and that the works required to join the new structure into the roof of the original house would be permitted development under Class C. Taking these together, both proposals would be permitted development under the provisions of the GPDO.
16. For the reasons given above I conclude, on the evidence now available, in respect of both Appeals that the Council's refusal to grant a certificate of lawful use or development in respect of the demolition of an existing extension and erection of a replacement two storey extension was not well-founded and that the appeals should both succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

APPEAL C

The development

17. The application as submitted related solely to the erection of a house. The Council's decision notice refers, in addition, to alterations to the garage on the site, but it was agreed at the hearing that this is not part of the development before me. I shall confine my consideration to the erection of the house.

Main Issues

18. Policies in the East Herts Local Plan generally restrict development in the countryside. However, Policy HSG8 allows the replacement of dwellings where the original is of poor appearance or construction not capable of retention, and not contributing to the character and appearance of the surroundings. This is subject the dwelling to be replaced having a lawful residential use (not an issue in this appeal); the volume of the new dwelling not being materially larger than the dwelling to be replaced, plus any unexpended permitted development rights; and the new dwelling being no more visually intrusive than the dwelling to be replaced. The replacement dwelling must also satisfy requirements in Policy HSG7. It must be well sited in relation to the surrounding buildings and not appear obtrusive or over intensive or result in the loss of important landscape features. Its design must complement the character of the local built environment and have regard to local distinctiveness.
19. The main issues to be considered in this Appeal are:
- (a) whether the development would be consistent with Policy HSG 8;
 - (b) its effect on the character and appearance of the area;
 - (c) whether there are material considerations, including any fall back positions, which together would justify allowing the development if other factors suggest it should be refused permission.

Compliance with Policy

Appearance and construction

20. The appellant describes the existing house as having a 'pleasant external appearance'. I agree. Its appearance provides no justification for its replacement.

21. In his appeal statement, the appellant claimed that the foundations all around house are inadequate, that there is settlement and that the first floor and the entire mansard structure are defective. He asserted that if the building is to remain it would be essential to strengthen all its foundations and to replace the entire structure above and including the first floor.
22. There is little evidence before me to support this assertion. At the hearing, the appellant's structural engineer confirmed that the building is not up to the standard which would be required by current building regulations. That is not surprising as the original house was built in the 1920's and the extensions were added over 20 years ago.
23. The foundations are shallow, there are trees nearby and soil in the area may be prone to move with fluctuations in ground water. Nonetheless, there is no evidence of subsidence. The timber first floor has a long span, lacks the stiffness that would be required today and, over the years, has bowed slightly in the middle. The mansard structure is not as well braced and stiff as it would be if built today and is inclined to flex in the wind. Movement of the floor and roof has produced cracks in the plasterwork, but these are not structural. They can be dealt with by relatively minor periodic filling and redecoration.
24. The insulation performance of the walls, roof and windows is well below what today's building regulations would require, but the same could be said of most of the country's present housing stock. It may not be cost effective to bring the house up to today's standards, but there is no immediate need to do so. Considerable improvement could be made to the building's insulation at much lower cost.
25. The appellant's argument that it would be cheaper to rebuild the property than to retain and improve it is based on an assumption that it must be brought up to at least the standard required by today's building regulations. I do not accept this.
26. The house has not been well maintained recently. However, it has stood there for about 90 years, or over 20 years in respect of the extensions. There is no reason why it should not continue to stand there. Although in some respects it is not up to the standard one would expect of a new house today, the same could be said of very many other houses which provide perfectly satisfactory places in which people continue to live. I see no reason why with appropriate repairs and improvements it could not provide a satisfactory and acceptable standard of accommodation for many years to come, albeit accommodation which is not fully up to the standard which could be achieved in a new house.
27. The evidence does not show that the house is of such poor appearance or construction as to warrant its replacement or that it is not capable of retention.

Volume

28. Policy HSG8 was adopted before the amendment to the GPDO in 2008. At that time, a detached house could be extended under permitted development rights by 70 cu m or 15% whichever was the greater. Had the GPDO remained as it was then, there would today be no permitted development right to extend the house as the extensions which have already been built exceed 70 cu m. In relation to Policy HSG8, there would be no unexpended permitted development rights.

29. Policy HSG8 must, however, be interpreted and applied in the context of the GPDO as it exists today. This raises the question – what today in relation to this property is the meaning of the phrase ‘unexpended permitted development rights’.
30. The intention of the Policy when it was adopted was that replacement dwellings could be larger than those they replaced, but by a limited or finite amount – that amount being the unexpended permitted development rights plus whatever additional volume might be judged to be not material. LDC’s have been issued by the Council indicating that extensions could be added to all four sides of the original dwelling under permitted development rights. I have found that the two proposals before me in Appeals A and B would also be permitted developments, although these would be alternatives to two of the proposals for which LDC’s already exist.
31. The appellant argues that these LDC’s establish the unexpended permitted development rights in relation to the property which should be taken into account in applying Policy HSG8. I disagree.
32. The Policy does not refer to specific proposals for which there may exist LDC’s, but to the totality of permitted development rights. In this case, rather unusually, the principal elevation of the original house faces away from the roads adjoining the site. Because of this, the extension proposed in Appeal B could project much further to the southeast and still be permitted development. It could be very large indeed, its volume being restricted only by the extent of the curtilage at the time construction begins and by the fact that if the curtilage were extended to the southeast it would eventually front a highway.
33. The GPDO was amended in 2008 to change the emphasis from one which sets finite limits on the scale of permitted development to one which concentrates on the visual and other impact of proposed extensions. In circumstances such as exist at the appeal site, it sets no practical finite limit to the extent to which the house can be extended. The phrase ‘unexpended permitted development rights’ in Policy HSG8 has no sensible meaning in this context. To interpret it as meaning that new houses can be larger than those they replace provided they do not exceed the volume of the original house plus the volume of the largest extension which could theoretically be added under permitted development, even if that extension could be very large indeed, would render the Policy meaningless.
34. It seems to me that Policy HSG8 must be interpreted and applied in a purposive manner. Its aim is to avoid undue urbanisation of the countryside by preventing houses being replaced by ones which are substantially larger than them. When it was adopted, its intention was to ensure that any replacement for the house on the appeal site would not be materially larger than the house which now exists, permitted development rights as they existed then for extensions having been used up.
35. In this case, the present house is about 455 cu m. The proposed replacement would be at least 955 cu m – more than twice as big. I consider that this very substantial increase in volume would be inconsistent with the aims of Policy HSG8.

Conclusion

36. The existing dwelling is capable of retention and neither its appearance nor its quality of construction necessitate its replacement. In addition, the replacement dwelling proposed would be very substantially larger than the existing one. Because of these factors, I conclude that the development would be inconsistent with the aims of Policy HSG 8.

Effect on the character and appearance of the area

37. Because of the greatly increased volume and bulk of the replacement dwelling, and to some extent because it would be closer to the road, the development would reduce the openness of the area and give it a more developed appearance. The new house would be more visually intrusive than the dwelling to be replaced. It would erode the character of the countryside which Planning Policy Statement 4: *Planning for Sustainable Economic Growth* says should be protected for the sake of its intrinsic character and beauty.

38. I conclude that the development would harm the character and appearance of the area in a manner inconsistent with Policies HSG7 and 8 and other Policies in the Local Plan which seek to protect the countryside from the harmful cumulative effects of development.

39. The design of the replacement dwelling is innovative and unrelated to anything in the area. However, the existing house is also of a very individual design. In my view the design, as oppose to the size, of the proposed house would be acceptable in this relatively isolated location. I do not, however, accept the appellant's argument that it would be an improvement on what exists. The design of the existing house is just as appropriate in this location.

Other considerations

Sustainability

40. In his appeal statement, the appellant argued that the replacement house would incorporate a wide range of sustainability measures and that, even allowing for the energy expended in construction, it would be more environmentally friendly to replace the existing building than to refurbish it. He produced figures which purported to show that the payback on the carbon cost of the new home compared to refurbishment would be around 16 years.

41. Most of the sustainability measures on which this calculation was based are not shown on the plans before me and the appellant was unable to assure me even that they were all achievable. At the hearing, a condition was suggested which could ensure that the new building achieves Level 4 of the Code for Sustainable Homes, but this would not secure the standard behind the appellant's calculation.

42. In addition, the calculation was based on the assumption that, if it is to remain, it would be essential for the existing house to be brought up to the standards required today for a new house. I have indicated above that, in my view, this is a false assumption. It is likely that lesser, and less expensive, steps would be sufficient to produce a satisfactory and acceptable standard of accommodation. The estimated cost of retaining the existing house is inflated by the assumed need to replace the entire roof structure and underpin all the

walls. If this were excluded, the apparent attractiveness of replacement relative to refurbishment would be reduced further.

43. The evidence before me does not show that it would be better in sustainability terms to replace, rather than to refurbish, the existing house. Even if it had shown this, however, at least the same beneficial effect could be achieved by replacing the house with one which, in volume, would be consistent with the aims of Policy HSG8. For these reasons, I attach no weight to the intended incorporation of sustainability measures in the replacement dwelling.

Fall back position

44. The appellant argued that, if the appeal is dismissed he would build the extensions for which he has secured LDC's and that this would be more harmful than erecting the replacement house.
45. This is an attractive rural site. I accept that he would be reluctant to leave it and that, if he is unable to build a new house, he is likely to improve and enlarge the present accommodation. He applied for LDC's in respect of the two extensions in Appeals A and B in September 2010. These extensions would provide much improved and enlarged accommodation and I accept them as an indication of what may happen if a replacement dwelling cannot be built.
46. After the Council refused his first applications for LDC's he submitted four further applications, all of which were in due course successful. At the hearing, he assured me that these four extensions would be built if his appeals were unsuccessful. It was clearly in his interest to give this assurance, but I am not convinced that I should rely upon it.
47. Two of the LDC's relate to two storey extensions similar to those in Appeals A and B but with roofs which would not join into the roof of the original house. The appellant appears to be someone who appreciates, seeks and can afford good design and it seems to me unlikely that it was ever his intention to build these contrived, unsightly and inefficient extensions. It is more likely that the LDC's for them were obtained as devices to help at the hearing rather than as genuine proposal which would be implemented if the Appeals failed.
48. The other two LDC's are for small single storey additions at the sides of the house. These would be more satisfactory in their appearance and in their relationship to the rest of the accommodation and the likelihood that they would be built is greater. However, the fact that they too were applied for after the original applications were refused suggests that they may also have been obtained primarily as devices to help at the hearing. This make me less confident that they would be built if Appeal C is dismissed.
49. If the extensions in Appeals A and B and the two single storey extensions for which LDC's have been granted were all built, the volume of the existing house would be increased to about 897 cu m. It would still be about 58 cu m smaller than the proposed replacement house.
50. Although building these four extensions would conflict with the aims of Policy HSG8 and would have a harmful effect on the openness, character and appearance of the countryside, in my opinion this would be preferable to erection of the replacement dwelling now proposed. Even with the four extensions, the existing house would be smaller in volume than the replacement house and its visual impact would be further reduced by its

articulated form. In most views, it would not be possible to see both single storey extensions, and from many viewpoints neither of these would be visible because of the screening effect of vegetation.

51. In contrast, the simple rectangular form of the proposed house would emphasise its bulk and make it more visually intrusive.
52. For this reason, I attach no weight to the fall back position put forward by the appellant. The fact that it is far from certain that all four of the extensions, and in particular the two single storey extensions, would be built if permission is refused for the replacement house reinforces my view on this matter.

Permitted development restriction

53. If permission were granted for the replacement dwelling it would be possible and, given the aims of Policy HSG8, reasonable to attach a condition removing permitted development rights for extensions. Although the appellant suggested that rights in respect of out-buildings could also be removed, a condition to that effect would not meet the tests in Circular 11/95 *The Use of Conditions in Planning Permissions* in that it would not be sufficiently related to the development being permitted.
54. The ability to restrict permitted development rights is a factor in favour of the development before me. However, it is one to which I attach only limited weight. Given the size and design of the replacement dwelling, it seems to me that the likelihood of it being extended in the future is small. The likelihood that the original house would be extended further than provided for in the current LDC's is also small.

Habitat management

55. The appellant invited me to impose a condition on any permission I might give requiring a scheme to be submitted, agreed and implemented to enhance the ecological interest of the site. No details were provided as to what such a scheme might contain but given the size of the site I have no doubt that some steps could be taken to enhance its value for fauna and flora. The possibility of securing such an enhancement is a factor in favour of the development to which I attach limited weight.

Conclusion

56. I have found that the development would be inconsistent with Policies in the Local Plan and that it would have a harmful effect on the character and appearance of the area. I attach no weight to the intended sustainable characteristics of the proposed replacement house or to the possibility that extensions for which LDC's have been issued may be built if the appeal is dismissed. Some potential benefit to the environment may arise from the development as a result of the opportunity to restrict permitted development rights and to enhance the ecological value of the site, but in my view this benefit does not outweigh the harm which the development would cause or justify departing from the provisions of the Local Plan.
57. For these reasons, and having taken into account all the other matters referred to in the written submissions and at the hearing including the views of the Parish Council, I conclude that Appeal C should fail and that planning permission should not be granted.

FORMAL DECISION: APPEAL A. REF: APP/J1915/X/11/2153163

58. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is considered to be lawful.

FORMAL DECISION: APPEAL B. REF: APP/J1915/X/11/2153165

59. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is considered to be lawful.

FORMAL DECISION: APPEAL C. REF: APP/J1915/A/11/2152982

60. The appeal is dismissed.

B Barnett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr F J Hardinges	Appellant
Mr C Watts BA MRTPI	Maze Planning Ltd
Mr N Tye RIBA	Architect
Mr Thorogood BEng CEng MStructE	Structural Engineer
Mr I Horton MRICS	Quantity Surveyor

FOR THE LOCAL PLANNING AUTHORITY:

Ms F Morley BSc MA	Assistant Planning Officer, Bedford BC
Mr M Plummer BSc MSc	Senior Planning Officer, Bedford BC

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Drawing 1365.PD10.04 showing 4 'approved' LDC extensions
- 2 Two photographs with generated images of proposed and extended buildings



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

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

IT IS HEREBY CERTIFIED that on 24 September 2010 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development would have been permitted by Article 3(1) and Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)

Signed

B Barnett

INSPECTOR

Date 18.11.2011

Reference: Ref: APP/J1915/X/11/2153163

First Schedule

Demolition of existing conservatory and single storey extension on rear elevation and erection of a replacement two storey extension in which any upper floor window located in the wall or roof slope forming a side elevation of the dwellinghouse shall be obscure glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Second Schedule

Land at The White Cottage, Latchford, Standon, Hertfordshire, SG11 1RB

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

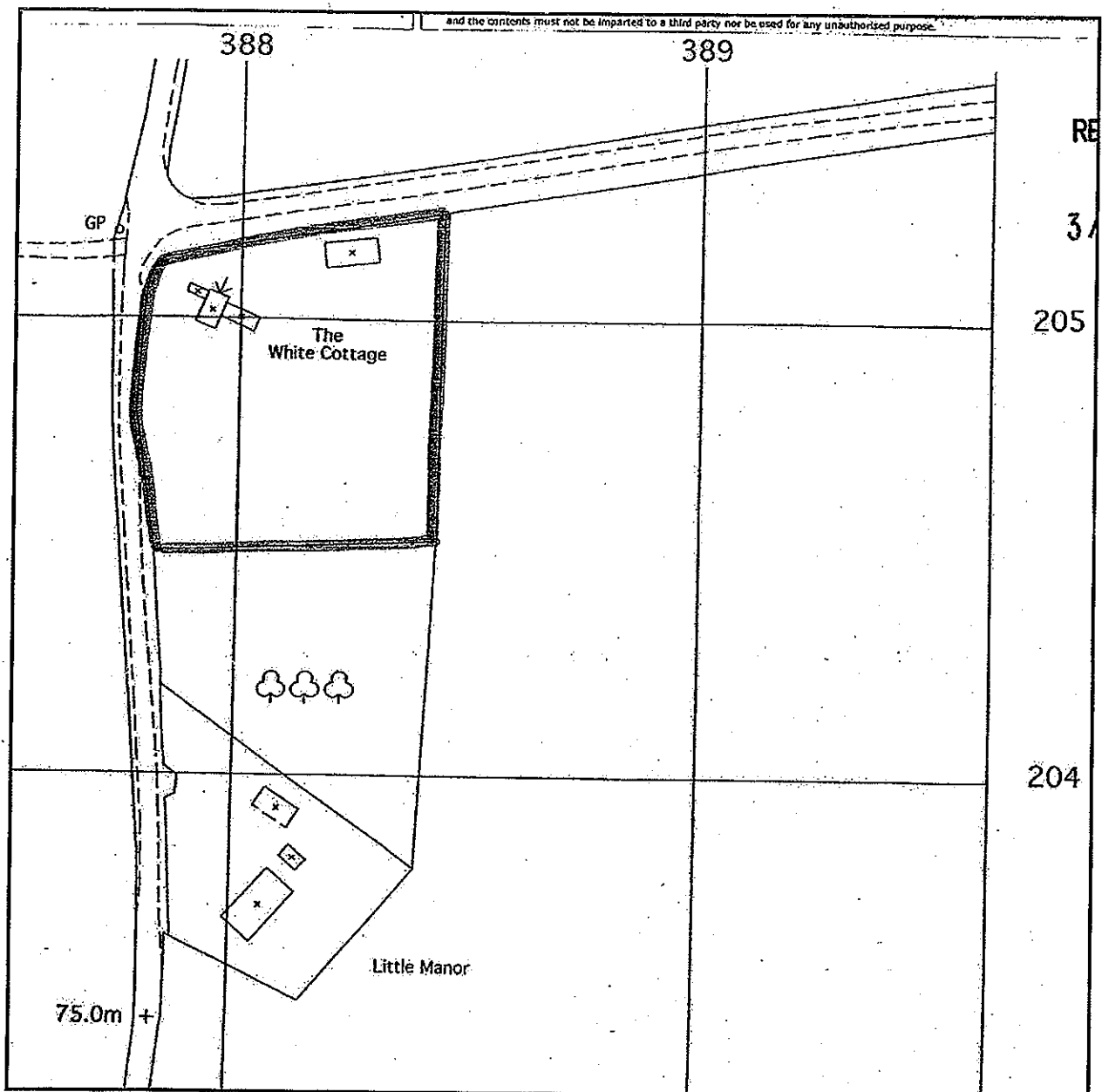
This is the plan referred to in the Lawful Development Certificate dated: 18.11.2011

by **B S Barnett BA MCD MRTPI**

Land at The White Cottage, Latchford, Standon, Hertfordshire, SG11 1RB

Reference: APP/J1915/X/11/2153163

not to scale





Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

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

IT IS HEREBY CERTIFIED that on 24 September 2010 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development would have been permitted by Article 3(1) and Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)

Signed

B Barnett

INSPECTOR

Date 18.11.2011

Reference: Ref: APP/J1915/X/11/2153165

First Schedule

Demolition of two storey extension to principal elevation and erection of a replacement two storey extension in which any upper floor window located in the wall or roof slope forming a side elevation of the dwellinghouse shall be obscure glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Second Schedule

Land at The White Cottage, Latchford, Standon, Hertfordshire, SG11 1RB

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

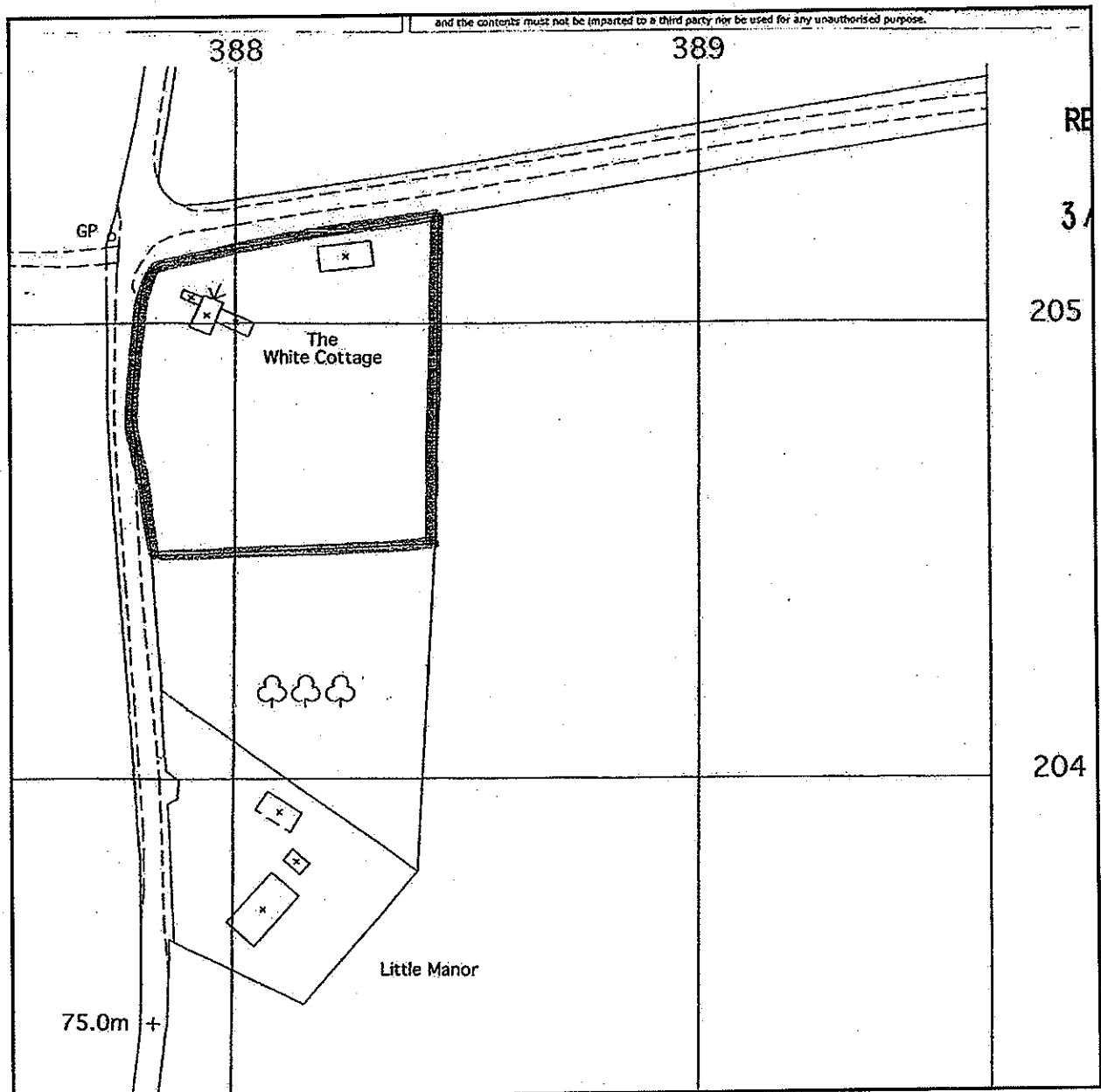
This is the plan referred to in the Lawful Development Certificate dated: 18.11.2011

by **B S Barnett BA MCD MRTPI**

Land at The White Cottage, Latchford, Standon, Hertfordshire, SG11 1RB

Reference: APP/J1915/X/11/2153165

not to scale:





Appeal Decision

Site visit made on 4 October 2011

by **Ian Radcliffe BSC (Hons) MCIEH DMS**

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

Decision date: 27 October 2011

Appeal Ref: APP/J1915/A/11/2156353

Birch Farm, White Stubbs Lane, Broxbourne, Hertfordshire EN10 7QA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Ferraro against the decision of East Hertfordshire District Council.
 - The application Ref 3/10/2154/FP, dated 7 December 2010, was refused by notice dated 9 March 2011.
 - The development proposed is an extension to the existing kennels.
-

Procedural matter

1. I have had regard to the Draft National Planning Policy Framework document which was issued for consultation on 25 July. However, as this document is in draft form and subject to change I have accorded its policies little weight. As a consequence, it has not altered my reasoning or conclusions in relation to the appeal.

Decision

2. The appeal is dismissed.

Main Issues

3. The main issues in this appeal are;
 - whether the development proposed would be inappropriate development in the Green Belt for the purposes of Planning Policy Guidance Note 2: 'Green Belts' (PPG2) and development plan policy;
 - the effect of the proposal upon the openness of the Green Belt;
 - the effect of the proposal upon the character and appearance of the area;
 - the effect of the proposal on the living conditions of the residents of existing and future nearby housing with regard to noise and disturbance; and,
 - if the proposals would constitute 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

4. PPG2 advises that the reuse of buildings is not inappropriate development within the Green Belt providing, amongst other matters, it is capable of conversion without major or complete reconstruction. It is not a matter in dispute that the poor condition of the main kennel building would mean that the most practical and economic solution would be to demolish and rebuild. However, such an action would be contrary to policy GBC9 of the East Hertfordshire Local Plan which only allows the reuse of rural buildings if they do not require complete or substantial reconstruction. The replacement of the building would therefore constitute inappropriate development. The development would therefore, by definition, be harmful to the Green Belt as described in paragraph 3.1 and 3.2 of PPG2.

Openness

5. PPG2 advises that the most important attribute of the Green Belt is its openness. The replacement kennel building would be 1.3m taller and have a side extension and large rear extension of similar height with the latter linked to the main kennel by an enclosed walkway. It is unclear if the amount of hard standing around the kennels and isolation block would increase. Whilst the fenced dog runs to the rear of the kennels would be removed, along with the small building between the kennels and isolation kennels, the overall effect would be of a significant increase in the quantum of development on the site. The proposal would therefore also cause harm to openness. This additional harm to the Green Belt adds further weight against the proposal.

Character and appearance

6. White Stubbs Lane is characterised by intermittent development within a predominantly wooded landscape. The appeal site in contrast is open land which slopes gently southwards away from the Lane. Although the development would be set sufficiently far from the Lane to be hidden from view it would form part of the built environment abutting the new residential development immediately to the north and would be visible in longer distance views from public footpaths to the south. In terms of appearance, the proposed buildings have been sympathetically designed and the different elements of the main kennel building would provide interest and variety. The use of timber weather boarding and conservation tiles would also complement the appearance of traditional buildings in the locality. The proposal would therefore not harm the character and appearance of the area. Nevertheless, the absence of harm in relation to this issue does not weigh in favour of the proposal. It merely provides no further weight against it.

Noise and disturbance

7. The main kennel would have provision for 30 dogs. Within 60m of the main kennel block there are 2 houses and planning permission has been granted for an additional 3 dwellings. I saw that the ground preparation works in relation to the new dwellings are underway. The isolation kennel at the northern edge of the appeal site containing a further 4 dogs would be even nearer to residential development.
8. Kennels generate significant amounts of noise. Through good design and operation it may be possible to limit barking to the extent that its loudness, duration and the frequency of events do not have a significant adverse effect on the living conditions of current and future nearby residents. However, given

the proximity of nearby housing I have serious doubts that this could be achieved. In the absence of a noise assessment demonstrating that noise levels could be adequately controlled through sound proofing of the kennels and good management I find that this matter could not be addressed by the attachment of conditions. Noise and disturbance associated with barking dogs is therefore likely to unacceptably harm the living conditions of nearby residents. This would be contrary to policy ENV24 of the Local Plan which seeks to prevent such harm.

Other matters

9. In the context of the previous equestrian centre which used the same access and 'Paradise World', a tourist attraction, which is a close neighbour, it is reasonable to assume that the development would not generate traffic levels that would have a serious adverse effect on highway capacity. Furthermore, the 13 car parking spaces proposed appears to me to be sufficient. The proposal would therefore comply with the objectives of policies TR7 and TR20 of the Local Plan which seek to ensure adequate parking acceptable highway conditions.

Other considerations

10. I have found that the proposal would be harmful to the Green Belt. It is therefore necessary to consider the grounds put forward by the appellant, to determine whether there are any material considerations that would amount to very special circumstances that would outweigh this harm.

Recycling of derelict land and urban regeneration

11. One of the purposes of including land in the Green Belt is to encourage the regeneration of urban land rather than allow new development in the countryside. However, the appeal site is in a rural area within the Green Belt and so contrary to the appellant's assertion the appeal proposal would not assist with achieving this objective. Furthermore, it is not necessary to grant planning permission for the proposal in order to improve the appearance of the land. The existing structures and hard standing could be cleared without planning permission. These considerations are therefore of minimal weight in favour of the proposal.

Major developed sites

12. Where major developed sites are identified in the Local Plan as being suitable for infilling or redevelopment Annex C of PPG2 provides advice. The appeal site does not form part of such a site and so reference to the Annex is a consideration of minimal weight in favour of the proposal.

Planning permission for new houses on the adjacent site

13. The fact that permission for new housing on adjacent land between the appeal site and White Stubbs Lane has been granted is not a reason by itself to grant permission for the development. I have assessed the proposal on its own merits and have found that harm would occur. I therefore attach little weight to this consideration in favour of the appeal.

Conclusions

14. The harm by reason of inappropriateness is substantial. This harm is added to by the reduction in openness and the noise and disturbance which is likely to occur. Clearly the degree of harm would be significant and in comparison the material considerations in favour of the proposal are minimal. I therefore conclude that very special circumstances do not exist that justify granting permission for the development. As such the development would be contrary to policy GBC1 of the Local Plan and PPG2.

Ian Radcliffe

Inspector



Appeal Decision

Site visit made on 1 November 2011.

by G Powys Jones MSc FRTPI

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

Decision date: 10 November 2011

Appeal Ref: APP/J1915/A/11/2154349
85 Railway Street, Hertford, SG14 1RP.

- 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 Ellarose Estates against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/0292/FP, dated 17 February 2011, was refused by notice dated 21 April 2011.
 - The development proposed is a new build of 7 No. 2 bed & 2 No. 1 bed apartments with part ground floor commercial unit.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (a) whether the proposed development would serve to preserve or enhance the character or appearance of the Hertford Conservation Area (CA), and (b) the effect of the proposal on the living conditions of nearby residents in St Johns Street with particular reference to privacy.

Reasons

Character or Appearance

3. The appeal site is centrally situated and forms part of a larger tract, most of which has been subject to planning permission for residential development. Planning permission was granted on the appeal site in 2008, a scheme referred to by both parties. Reference is also made to a more recent appeal decision affecting the land (*Ref APP/J1915/A/08/2086662*), albeit that the site address quoted then is different to that used in this appeal. The previous planning permission and the appeal decision are material to my considerations.
 4. The Council's first reason for refusal appears to be largely based on the comments of its conservation officer. She acknowledges that, overall, the scheme is similar to the previously approved scheme with the exception of the design of the proposed corner tower and the Railway Street elevation, and that it would not cause serious harm to the significance of designated heritage assets.
-

5. Her concerns, however, centre on the design and massing of the proposed corner tower feature, which is considered to be too dominant, particularly with regards to the scale of other nearby buildings in St Johns Street, and on the opposite corner. She is also critical of the design approach, which is regarded as confused in terms of its styling, appearing to draw on randomly selected architectural details rather than presenting a coherent concept of style based on a good understanding of the history and heritage of this part of the CA.
6. I have not been provided with an appraisal of the CA, should one exist, but both parties have prepared a brief description of the main building elements from which this part of the CA derives its character. Having regard to the visual evidence of my visit, I found the appellant's version to be more comprehensive and accurate. Whilst the Council's description concentrates largely on the designated heritage assets, and the other older buildings in the vicinity of the site, it largely overlooks the existence of other buildings that contribute significantly in forming local character.
7. Within the site's zone of visual influence a plethora of modern buildings displaying a variety of styles, shapes and materials is evident. These include the large retail store opposite the railway station; the substantial flatted accommodation opposite the bus station; a small residential scheme at 75 Railway Street; the gated Mitre Court with its dominant arched entrance; the large scale flats in Mill Road, a short distance along from the listed Dolphin; and the large extension to Chauncey Court, opposite the appeal site, which exerts a significant visual influence on it, and upon this part of Railway Street.
8. I make no comment on the design quality of the buildings granted permission in modern times. However, I recognised no discernible unity of design approach; rather, the most striking feature of local design is its eclecticism. All buildings, new and old, contribute to forming the character of this part of the CA.
9. I do not share the Council's design concerns, particularly in the context of that granted planning permission before. The massing and overall scale of the building would be appropriate in the context of nearby development (existing and permitted); the proposed corner block, which I assessed carefully on both approaches along Railway Street and from St Johns Street, would not in my view appear dominating, and is the type of modest 'bookend' feature commonly found on urban street corners; the roof, more punctuated than before, would be appropriately proportioned and, although I saw no local evidence of cupolas, this is insufficient reason for objection, and their presence here would add interest and reduce the mass of the roof; a sufficient gap would exist between the proposed building and the St John's Street dwellings to ensure adequate visual separation and, given its town centre location, the absence of a significant quantity of landscaping is not considered, in itself, to be objectionable. Concerns as to minor detailing or materials could be addressed by condition, if necessary.
10. Given the site's planning history, and the nature of the development approved alongside, I consider that the proposal would sit acceptably within its visual context without causing harm. Its visual effect would be largely neutral in the context of that which exists nearby, and there would be no discernible effect on buildings designated as heritage assets.

11. I therefore conclude that the character and appearance of the CA would be preserved. Accordingly, there is no conflict with those provisions of policies ENV1 or BH6 of the East Herts Local Plan Second Review (LP) which, in combination, require development proposals to be sympathetic to the general character of conservation areas in terms of scale, height, proportions, form, materials and siting.

Living Conditions

12. The appellant's comments on the privacy issue are somewhat ambivalent in the sense that an attempt is made to justify overlooking in an urban environment. Whilst I fully understand the thrust of the argument, it is acknowledged, on the other hand, that the open, high terrace of particular concern to the Council would cause a significant increase in the local perception of overlooking, and could be redesigned or omitted from the scheme.

13. At the site visit, the position of the high terrace serving proposed flat 9 in relation to the rear gardens of the residential properties in St John's Street was agreed. As a consequence of what I saw, I harbour no doubts that the residents of those properties closest to the site in St John's Street would become subject to a significantly increased level of overlooking, at relatively close quarters, when using their rear gardens, such as would materially and harmfully impair their privacy, actual and perceived.

14. I have considered the design options proposed by the appellant to overcome this serious deficiency in the scheme. However, since the options would involve not insignificant design changes, they should be subject to formal consideration by the Council, including public consultation. It would not therefore be desirable or appropriate, having regard to maintaining the interests of transparency and openness, to deal with this matter by condition, as suggested by the appellant.

15. I conclude that the proposals, in that they would harmfully affect the privacy of the residents of St John's Street closest to the appeal site, conflict with the provisions of LP policy ENV1 requiring new development to respect the amenities of the occupiers of neighbouring buildings.

Other matters

16. The views of local residents, those representing local residents and the Civic Society have been considered, and I hope to have dealt with most of the planning related points raised in dealing with the main issues.

17. I do not consider there is sufficiently compelling evidence to warrant a refusal on highway grounds, the effects on the residents of Chauncey Court, or issues in respect of daylight and sunlight. I note that the Council shares my view on these aspects.

18. I fully understand the points made by a resident of St John's Street in respect of possible overlooking from other proposed windows/terraces. The degree of overlooking from the other openings would not, however, be significantly greater than that which would have arisen in the previously approved scheme. Nonetheless, this merely serves to add weight to my conclusion on the second main issue.

19. I have noted the references to other local policies and national policy advice and guidance, but I consider the policies to which I have referred above to be the most relevant to this case.

20. No other matter raised is of such significance as to outweigh the considerations that led me to my conclusions.

Conclusions

21. I find in favour of the appellant on the first of the main issues, that of the effect of the proposal on the character and appearance of the CA, but I find against the appellant on issues relating to overlooking and privacy. This is sufficient reason to dismiss the appeal.

G Powys Jones

INSPECTOR



Appeal Decision

Site visit made on 17 October 2011

by **P N Jarratt BA (Hons) DipTP MRTPI**

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

Decision date: 1 November 2011

Appeal Ref: APP/J1915/A/11/2153433

The Robin Hood, 63 High Street, Walkern, Stevenage, SG2 7NT

- 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 Lordacre Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/0316/FP, dated 25 February 2011, was refused by notice dated 28 April 2011.
 - The development proposed is the erection of a detached house.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached house at The Robin Hood, 63 High Street, Walkern, Stevenage, SG2 7NT in accordance with the terms of the application, Ref 3/11/0316/FP, dated 25 February 2011, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 381510/1 Rev A.
 - 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
 - 5) All existing hedges and trees shall be retained and protected from damage for the duration of the works in accordance with Russell Ball and Associates Phase II Arboricultural Impact Assessment dated 27/05/2011. Any tree or part of a hedge removed without the local planning authority's consent or otherwise damaged within 5 years of the practical completion of the development shall be replaced no later than the end of the first available planting season with plants of an appropriate size and species as may be agreed in writing with the local planning authority.

- 6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include means of enclosure; hard surfacing materials and planting plans.
- 7) No development shall take place until full details of the vehicle access have been submitted to and approved in writing by the local planning authority. The implementation of the approved details shall be carried out before the first occupation of the dwelling.

Main Issues

2. The main issues in this appeal are the effects of the proposed development on the setting of a listed building and whether it would preserve or enhance the character and appearance of the Conservation Area.

Reasons

3. The appeal site is to the rear of the currently vacant Robin Hood PH on land that was formerly the pub garden. The Robin Hood is a Grade II listed building with a small outside storage area and parking for five cars between the rear of the pub and the appeal site. Totts Lane runs from the High Street along the side of the pub and the appeal site which is separated from the highway by a low bank. The appeal site is within a Conservation Area, the character and appearance of which varies between that of the High Street and those parts set further away.
4. The listing description for the pub states that the one-storey rear wings are not of special interest. However the appeal site historically forms part of the long plots associated with the pub and other nearby properties on the High Street, with Totts Lane being characterised by the absence of frontage development until the corner at the lower part of the lane is reached. However the slightly lower level of the pub garden creates a physical distinction from the Robin Hood and its car park and I do not consider that it contributes in any significant way to the setting of the listed building.
5. Planning permission has been granted for a dwelling on a backland site to the rear of 69 High Street. Beyond that development site is the prominent side elevation of an existing building which is visible from the lane, diminishing the visual quality of the open land of the appeal site. The narrowness of the appeal site coupled with the development of the adjacent plot would lead to any value that the appeal site has in terms of openness being severely compromised. The development of the appeal site would be consistent with the adjoining sites and would create an attractive frontage property of a traditional design and of a scale, form and materials that would contribute positively to the character and appearance of the Conservation Area. The development of the appeal site would have no significant effect on views of the listed building when travelling along Totts Lane to the High Street.
6. The existing hedgerow on the southern boundary of the site is overgrown and does not appear to have been maintained for some time. It has little amenity value other than through the presence of an ash tree which would be unaffected by the proposals. The Phase II Arboricultural Impact Assessment sets out proposals for protecting the hedge during construction and the

implementation of these proposals should secure the long term health of the hedgerow.

7. The proposed development would not harm the setting of the listed building and it would enhance the character and appearance of the Conservation Area. It would therefore accord with Planning Policy Statement 5: Planning for the Historic Environment and Policies ENV1, ENV11 and BH6 of the East Herts Local Plan relating to design and environmental quality, the protection of hedgerows and new development in Conservation Areas.
8. Representations have been made about the contribution that the pub makes to the village and the impact the proposals would have on the future operation of the pub. These are not matters to which I attach much weight as the parking and servicing of the pub would be little changed through the proposed development. Similarly, traffic, parking and the configuration of the junction of the High Street and Totts lane are not issues over which the highway authority has raised any concern. I note also that there would be no significant impact on the living conditions of the occupants of existing or proposed nearby dwellings.
9. A consultation draft of the National Planning Policy Framework has recently been published. I have had regard to it in this appeal but I consider that it has no substantive effect on the relevant issues and I therefore afford it little weight.
10. The Council has suggested a number of conditions which I have considered in the light of Circular 11/95. I have amended the conditions where appropriate to make them more concise and relevant to the development approved. Condition 2 is necessary for the avoidance of doubt. Conditions 3, 5 and 6 are necessary to protect the setting of the listed building and the character and appearance of the Conservation Area. Condition 4 is necessary to protect any archaeological remains as the site is within an Area of Archaeological Significance. Condition 7 is necessary in the interests of highway safety.
11. I have not included a condition relating to the specification for the surface treatment of the parking area as this is shown on the approved drawing to be a pea shingle drive. As this would permit sustainable rainwater drainage and is an appropriate material within the Conservation Area, the Council's suggested condition is unnecessary.
12. A condition requiring a contaminated land survey is also unnecessary in view of the appellant's response to a contaminated land questionnaire requested by the Council's Environmental Health Officer. Additionally a condition relating to the storage and removal of refuse is unnecessary as satisfactory proposals are indicated on the approved drawing.
13. For the reasons given above and having had regard to all relevant matters, including the effect of the development on plants on the highway bank, I conclude that the appeal should be allowed.

P N Jarratt

Inspector



Appeal Decision

Site visit made on 1 November 2011

by **G Powys Jones MSc FRTPI**

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

Decision date: 7 November 2011

Appeal Ref: APP/J1915/A/11/2156225

Bridgefoot House, 2a Star Street, Ware, Hertfordshire, SG12 7AA

- 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 Benacre Investments Limited against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/0406/FP, dated 9 March 2011, was refused by notice dated 3 May 2011.
 - The development proposed is the conversion of ground floor offices into 2No. two bedroom residential units, with new windows to replace doors in front and rear elevations.
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of ground floor offices into 2No. two bedroom residential units, with new windows to replace doors in front and rear elevations at Bridgefoot House, 2a Star Street, Ware, Hertfordshire, SG12 7AA in accordance with the terms of the application, Ref 3/11/0406/FP, dated 9 March 2011 subject to the conditions identified in the attached Schedule to this decision.

Main Issues

2. The main issues are: (a) the effect of the development on local employment sites, and (b) the quality of future residents' living conditions with particular reference to outlook, noise and disturbance.

Reasons

Local Employment Sites

3. Policy EDE2 of the East Herts Local Plan Second Review (LP) sets out the criteria for assessing proposals involving the loss of employment sites. The first criterion requires evidence to be produced demonstrating that the retention of the employment use has been explored fully, without success.
 4. The Council acknowledges, based on new information submitted with the appeal, that the offices have been marketed more fully than than was understood at the time of considering the original application, and on this basis it concedes that it may have viewed the application as more acceptable than signified in the first reason for refusal.
-

5. I consider that the marketing and other information produced by the appellants adequately demonstrates that the requirements of the first criterion of LP policy EDE2 have been met.
6. I therefore conclude that whilst the development would result in a small loss of potential office space, the loss has been justified under the terms and requirements of LP policy EDE2.

Living conditions

7. The flats would be dual aspect. Their lounges, at the front, would look out at Star Street, whilst their bedrooms would face the rear car parking area, which is enclosed by a wall.
8. All bedrooms would be adequately fenestrated, allowing uninterrupted outlook during the day over cars to the wall, and beyond to the trees on the banks of the nearby river, and the sky. Although parked cars would tend to dominate the foreground, the outlook is not such as to prove unacceptable, particularly given the location of the property close to the town centre, and that the windows of concern to the Council serve bedrooms, mostly used at night, when the quality of the outlook would not be foremost in residents' minds.
9. The juxtaposition of the flats and the car parking area is such that the movement of cars using the car park would probably be heard from within the proposed bedrooms. However, the likely number of traffic movements, particularly at night, would not be so significant or numerous as to give rise to the levels of noise and disturbance that would normally cause harm. I note too that the Council has granted permission for the conversion of the upper floors of the building where the relationship between windows and car parking area is not dissimilar.
10. I conclude that the living conditions of future residents of the flats, with particular reference to outlook, noise and disturbance would be satisfactory. The scheme therefore conform to the provisions of LP policy ENV1 requiring development proposals to respect the amenities of future occupants.

Conditions

11. The Council has suggested the imposition of several conditions which I shall consider having regard to the guidance of *Circular 11/95: The Use of Conditions in Planning Permissions*. Most will be imposed, albeit the precise wording may differ.
12. Having regard to the location of the building within the Ware Conservation Area, I consider the requirement for further details of all new doors and windows to be justified, in the interests of visual amenity.
13. The 'making good' of the building works to match the existing building is also necessary in the interests of visual amenity.
14. Details of bin storage is shown on the plans, and a requirement for further details is not justified since the Council has not explained why the submitted detail may be unsatisfactory.

15. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.

Other matters

16. The relatively minor building works involved would have a neutral visual impact on the locality so that the character and appearance of the Ware Conservation Area would be preserved.
17. The references to the draft *National Planning Policy Framework* are noted, but attract little weight since it is subject to change.
18. No other matter raised is of such significance as to outweigh the considerations that led me to conclude that the appeal should be allowed.

G Powys Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing numbers 10111/S/001C; 10111-P004, P005-A & P006-B.
3. The development hereby permitted shall not begin until details of the following matters have been submitted to and approved in writing by the Local Planning Authority: (a) drawings (scale 1:20) of all new and/or replacement windows to include sections and proposed means of installation in relation to the existing or proposed openings; and (b) drawings (scale 1:20) of all new or replacement external doors, including sections. Development shall be carried out in accordance with the approved details.
4. Following the completion of the building works, hereby permitted, the 'making good' of the works shall be carried out in materials matching those of the existing building.



Appeal Decision

Site visit made on 1 November 2011.

by G Powys Jones MSc FRTPI

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

Decision date: 11 November 2011

Appeal Ref: APP/J1915/A/11/2155952

Carlton House, Bells Hill, Bishops Stortford, Hertfordshire, CM23 2NN

- 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 Roger Carlton against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/0487/FP, dated 20 March 2011, was refused by notice dated 16 May 2011.
 - The development proposed is the change of use of basement to flat.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue concerns the quality of the living conditions of future residents of the proposed flat with particular reference to daylight and outlook.

Reasons

3. The appeal property is in office use and the space to the front and side is largely given over to car parking. The basement, as I saw, was largely empty but I understand its past use was for storage.
 4. The existing lightwell on the eastern elevation of the building would be deepened and widened so as to allow the construction of stairs leading downwards to a new glazed door opening. New windows would be inserted alongside the door, and 3 windows would be inserted in the northern elevation.
 5. The appellant asserts that the changes in fenestration would provide more than adequate light for the small flat proposed, but no lighting exercises appear to have been carried out, and no empirical evidence has been produced to support this assertion.
 6. In my judgement, in the absence of firm evidence to the contrary, the new window arrangements would not succeed in providing the internal daylight levels reasonably expected in a modern residential development. Future residents would probably be wholly reliant on artificial lighting within the flat, day and night.
-

7. The windows to be inserted in the northern elevation would be at a relatively high level within the basement so that the limited outlook available would be upwards towards railings. The outlook to the east would be towards a staircase and the retaining wall of the extended lightwell, at relatively close quarters.
8. Future residents, in my view, would have an extremely limited, poor and unattractive outlook from their subterranean environment, and this, in addition to the failings of the scheme with regard to daylighting, renders the development unacceptable.
9. I conclude that the scheme makes wholly inadequate provision for daylight and outlook for future residents. Accordingly, a conflict arises with those provisions of policy ENV1 of the East Herts Local Plan Second Review requiring development proposals to respect the amenities of future occupants.

Other matters

10. The appellant calls on aspects of national planning advice, including the draft *National Planning Policy Framework*, in support of the proposal since the site lies in a sustainable location; the flat would be a welcome addition to the local housing stock; there would be no harm caused to nearby residents; access is not at issue, and adequate car parking is provided. The Council does not argue otherwise, and I readily see that some advantages and benefits would arise from the implementation of the scheme. However, these do not outweigh the major failings of the proposal.
11. The relatively minor building works involved would have a neutral visual impact on the locality so that the character and appearance of the Bishops Stortford Conservation Area would be preserved.
12. The views of the Town Council have been noted, together with those of a local resident, who is particularly concerned as to local parking provision. The Council does not share her view on this aspect, and the evidence before me is insufficiently compelling to support an objection on these grounds.
13. No other matter raised is of such significance as to outweigh the considerations that led me to conclude that the appeal should be dismissed.

G Powys Jones

INSPECTOR



Appeal Decision

Site visit made on 1 November 2011.

by G Powys Jones MSc FRTPI

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

Decision date: 7 November 2011

Appeal Ref: APP/J1915/A/11/2156602

Jenningsbury Court, London Road, Hertford, SG13 7NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr C Abbiss against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/0506, dated 24 March 2011, was refused by notice dated 18 May 2011.
 - The development is change of use to garden use.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The change of use has already occurred, and according to the information shown on the original application form, it took place in January 2003. The appellant describes the garden as falling into 2 parts, the southern part being laid to closely mown grass, and the northern part said to be used as partly as a kitchen garden and partly laid to grass. The appellant, in effect, seeks to retain the garden use.
3. A summerhouse, on a raised platform, was evident in the southern part of the site. The original application documentation does not refer to the summerhouse, and the Council, at the time of the determination, considered that it *'..is not subject of this application..'* On this basis, I have concluded that the applicant does not seek planning permission for the summerhouse as part of his appeal, and I shall proceed accordingly.

Main Issues

4. The main issues are:
 - Whether the proposed development is inappropriate development for the purposes of *Planning Policy Guidance Note 2: 'Green Belts'* (PPG2) and local development plan policy;
 - The effect on the openness of the Green Belt (GB);
 - The effect on the character and appearance of the surrounding area;
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- If it is inappropriate development, whether the harm caused 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

Whether inappropriate development

5. PPG2 provides that making material uses in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the GB. Provisions in Policy GBC1 of the East Herts Local Plan Second Review (LP) reflect national policy guidance.
6. Whilst the summerhouse does not form part of the appeal proposals, my understanding is that it is claimed to have been built roughly contemporaneously with the change of use of the land. The construction of the summerhouse would have made little sense but for the change of use of the land, that is, the building would appear to have no other realistic function other than to be used in conjunction with the unauthorised garden.
7. The erection of the summerhouse, either as part of the act of, or as a consequence of forming a garden, has affected local openness, or has certainly not maintained its previous openness. Additionally, the use as a garden has involved the encroachment of a residential use into the countryside, conflicting with one of the main purposes of including land in the GB.
8. The change of use, for these reasons, is therefore inappropriate development, which, by definition, is harmful as set out in paragraph 3.2 of PPG2. This attracts substantial weight against the grant of planning permission.

Effect on openness

9. Although enclosed by a variety of fencing, hedging and planting, the garden, summerhouse apart, is otherwise open. But even taking the existence of the modestly sized summerhouse into account, the effect of developing the garden on the GB's openness has been slight. Additionally, the imposition of a condition removing permitted development rights in respect of the erection of buildings or structures would assist in maintaining future openness.
10. PPG2 provides that the most important attribute of Green Belts is their openness. However, since the effect on openness has been, and would be slight, this attracts but limited weight against the proposal.

Character and Appearance

11. As matters stand, most of the garden area appears akin to a paddock, and such use in the Council's view would reflect the character of this part of the countryside. However, whilst permitted development rights could be removed to avoid building, this would not prevent the future placing of domestic objects, garden furniture, play equipment and inappropriate planting on the land. Accordingly, whilst the land in its current condition may not materially affect local character, there can be no guarantee or certainty that the condition of the land would remain unchanged for the foreseeable future.

12. LP policy ENV7 deals with the extension of residential curtilages and states that such extensions into the countryside may be permitted subject to the satisfactory application of 3 criteria. The development of the appeal site does not literally amount to an extension of a residential curtilage, given its physical separation from the main dwelling. Nevertheless, the requirements of 2 of the criteria of policy ENV7 are met, but I do not consider that the requirements of the second criterion could be satisfactorily safeguarded, even if the policy were considered applicable.

13. I therefore share the thrust of my colleague's concern expressed in respect of a recent appeal on a nearby property (*Ref APP/J1915/A/10/2121846*) that use as a garden could all too easily result in the transformation of these open paddocks into a residential enclosure strewn with typically domestic paraphernalia, denuding the open character of the countryside and the green belt. Such a prospect attracts significant weight against the proposal.

Other considerations and whether very special circumstances exist

14. The land, historically, was granted planning permission as part of a golf course proposal. The golf course was eventually built without the inclusion of the appeal site, which remained in an appropriate rural use. Whilst the planning history is a material consideration, it attracts limited weight in favour of the proposal.

15. It is claimed that the appellant's current amenity area is too modest to meet the reasonable needs of the dwelling. I saw the area concerned, and considered it to be well designed and laid out, and of a reasonable size, albeit that it has little outlook. I can well imagine the attraction of changing the use of an area of land, albeit well divorced from the dwelling, to act as a recreational area for the appellant's grandchildren, and for use as a kitchen garden. However, the alleged shortcomings of the existing amenity area attract very little weight in favour.

16. The land concerned is not crossed by public rights of way, and I have not been made aware of others in the locality. It is therefore claimed, by implication, that the consequences of the change of use would not be widely seen. Whilst this is a point that carries little weight in the scheme's favour, it does not outweigh the local and national policy requirement that the countryside should be protected from harmful development so as to protect its intrinsic character.

17. The harm identified as a consequence of the inappropriateness of the development, its effect on openness, and local character carries substantial, limited and significant weight respectively, which collectively bear heavily against the development. The other considerations identified carry limited or little weight, and are insufficient to clearly outweigh the harm to the GB.

18. Accordingly, the very special circumstances necessary to justify the inappropriate development do not exist. The use conflicts with the thrust of the advice of PPG2 and LP policies GBC1 & ENV7 in respect of development such as this, and accordingly, the appeal is dismissed.

G Powys Jones

INSPECTOR



Appeal Decision

Site visit made on 8 November 2011

by **Alan Woolnough BA(Hons) DMS MRTPI**

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

Decision date: 15 November 2011

Appeal Ref: APP/J1915/D/11/2158197

150 London Road, Bishop's Stortford, Hertfordshire CM23 3LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Leanda Newlyn against the decision of East Hertfordshire District Council.
 - The application ref no 3/11/0579/FP, dated 31 March 2011, was refused by notice dated 18 May 2011.
 - The development proposed is described on the application form as: 'First floor extension to rear of property above existing dining room'.
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Formal Decision

1. I dismiss the appeal.

Main Issue

2. The main issue in determining this appeal is the effect of the proposed development on the character and appearance of the existing dwelling and the surrounding area.

Reasoning

3. No 150 London Road is a detached two storey dwelling with a fully hipped main roof, dating from the beginning of the 20th century. The ends of the rear gardens of the appeal property and its neighbours abut the eastern side of Nelson Road, a residential cul-de-sac from which the rear elevation of No 150 is clearly visible. This features a long-established two storey extension with a flat roof, which spans approximately two thirds of the width of the dwelling. The remaining third is occupied by a single storey rear addition with a mono-pitched roof.
4. The proposal comprises a further flat roofed extension at first floor level directly above the existing single storey element, thus creating a two storey flat roofed rear projection that would span the full width of the building. Saved Policy ENV6 of the East Herts Local Plan Second Review 2007 (LP) sets out criteria against which such schemes will be considered. These include that flat roofed extensions, except those on the ground floor, will be refused as visually undesirable other than in those exceptional circumstances where the character of the original dwelling allows a flat roofed design to be appropriately incorporated.
5. In this case, the traditional late Victorian form of the original dwelling is such that a flat roof at eaves level is very much an alien feature. This is amply demonstrated by the existing two storey rear addition, approved by the Council

in 1977, which has a most unfortunate impact on the Nelson Road street scene. Nonetheless, that extension does leave a section of the property's original rear eaves line exposed, thus preserving a vestige of the dwelling's traditional form in views from the rear. The Appellant suggests that the presence of the 1977 addition effectively means that the proposal would meet the objectives of saved LP Policy ENV6. However, I disagree.

6. That addition cannot, on any reasonable construction, be termed part of the 'original dwelling'. Moreover, although the appeal scheme would not be readily seen from London Road, it would be clearly visible from the public highway to the rear, despite partial screening by vegetation from certain directions. The degree of symmetry that would be introduced to the rear elevation would, in my assessment, be a negative consequence of the development, as it would remove from public view an important indication of the dwelling's original form.
7. Additionally, rather than being subsumed by the existing flat roofed feature or reducing its visual impact, the appeal scheme would widen that structure substantially, thus exacerbating its adverse effect on the street scene. Matching materials would not provide adequate mitigation. I acknowledge that the surrounding area is characterised by a wide range of dwelling types and architectural styles, in which no particular building form is predominant. Nonetheless, flat roofed two storey additions are far from typical and, where they do occur, are unworthy of replication and detract from their setting.
8. The rear curtilages of those London Road properties that back on to Nelson Road display an uncoordinated spread of open parking areas, domestic outbuildings and fences that fails to enhance the street scene. However, none of these rise to first floor level and, in any event, they are offset by the relatively attractive dwellings on the opposite side of the cul-de-sac. In sharp contrast to the latter, it is the incongruous flat roof at the rear of No 150, rather than the lower plethora of sheds and garages, that draws the eye as a negative component of the local townscape.
9. I conclude that the proposal would be harmful to the character and appearance of both the existing dwelling and the surrounding area and is contrary to saved LP Policies ENV1, ENV5 and ENV6 and the principles of good design promoted by Planning Policy Statement 1: *Delivering Sustainable Development*. The granting of planning permission in this case would therefore undermine the effectiveness of national and local design policy.

Other Matters

10. I have considered all the other matters raised, including the personal circumstances raised by the Appellant and her family's desire to continue living at the appeal property. However, paragraph 21 of the government publication *The Planning System: General Principles* advises that such issues will seldom outweigh more general planning considerations.
11. I have taken into account the other flat roofed and non-conforming additions in the locality drawn to my attention by the Appellant. Nonetheless, each proposal must be assessed primarily on its own merits and I find none of the examples cited to be directly comparable to the present scheme. In any event, I do not know the full circumstances associated with those other cases.

12. I have noted that neither the local Town Council nor any neighbouring resident has raised objection to the proposal and accept that no significant adverse impact on the living conditions of adjacent occupiers would result. Nonetheless, neither these nor any other matters are of such significance as to outweigh the considerations that have led to my conclusion on the main issue.

Alan Woolnough

INSPECTOR



Appeal Decision

Site visit made on 17 October 2011

by **P N Jarratt BA (Hons) DipTP MRTPI**

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

Decision date: 1 November 2011

Appeal Ref: APP/J1915/A/11/2154727
24 Hertford Road, Tewin, Welwyn, AL6 0JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Sheila Cowie against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/0612/FP, dated 7 April 2011, was refused by notice dated 26 May 2011.
 - The development proposed is the erection of a detached two bedroom dwelling with two bay car port and siting of associated septic tank.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached two bedroom dwelling with two bay car port and siting of associated septic tank at 24 Hertford Road, Tewin, Welwyn, AL6 0JY, in accordance with the terms of the application, Ref 3/11/0612/FP, dated 7 April 2011, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TCP7092; TPP7092; PL02A: SL7092; S1; PL01F.
 - 3) Details of all boundary walls, fences or other means of enclosure shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The boundary treatment shall be completed before the building is occupied and retained thereafter. Development shall be carried out in accordance with the approved details.
 - 4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 5) No development shall take place until details of the proposed doors and windows at a scale of not less than 1:20 have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 6) All landscaping works, the retention of and protection of existing trees and hedges during construction, the construction of the drive and replacement tree planting shall be carried out fully in accordance with the Arboricultural Method Statement by The Tree Bureau referenced AMS 7092 and dated 04.04.11.
- 7) All planting, comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any new or protected trees or hedges which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 8) The dwelling shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority.
- 9) Prior to the commencement of development the existing vehicular access shall be widened to 4.1 metres at the highway boundary and maintained at that width for a distance of 5 metres into the site.

Main Issues

2. The main issue is the effect of the proposed development on the character and appearance of the Conservation Area.

Reasons

3. The appeal site is located in the front garden of a detached house at 24 Hertford Road and is screened from the road by hedging. It is on the edge of the village adjacent to open countryside and within the Tewin Conservation Area.
4. The site is outside the Green Belt and in a village where the principle of infill development is accepted. The detached house at No 24 is set behind the adjacent properties and consequently has a larger front garden than its neighbours. The proposed house would be sited forward of the neighbouring dwelling and, although it would be about the same distance from the road as the neighbour's garage, it would bring development closer to the road at the entrance to the village. The pattern of development in the Conservation Area is informal with varied and irregular building lines and plot sizes. In this respect the location and size of the plot would not be harmful to the historic character of the Conservation Area.
5. The proposed development would share the existing access from the highway with No.24 and a new short length of connecting drive would link with the proposed parking area and car port. This would require the removal of a silver birch tree and other vegetation on the boundary. This tree has been identified in an arboricultural assessment and method statement submitted with the application as being of limited life expectancy because of its condition. Although other trees would remain, the effect of the works would be to open up part of the site to views from the road marginally changing the approach to the village. This in itself would not be significant as No 24 is already visible from the entrance to the village and local distinctiveness would not be materially

- affected by the partial opening up of the development site through the proposals. Any short term change in the appearance of the site would be mitigated in the longer term by the proposed planting of replacement trees.
6. Although the development is in the front garden of No. 24, the garden is sufficiently large for the dwelling to be accommodated without being cramped. It would not conflict with East Herts Local Plan Policies HGS7 and OSV1 requiring infill housing to be well sited in relation to surrounding buildings and it would not cause amenity problems to neighbours. It would not adversely affect the grain and pattern of development and the screening at the edge of the village would not be significantly affected. The design of the proposed dwelling and car port is appropriate for the Conservation Area and the development would preserve its character and appearance. It would therefore accord with Local Plan Policies ENV1 and BH6 relating to design and development in Conservation Areas.
 7. The Council has suggested a number of conditions which I have considered in the light of Circular 11/95. I have amended the conditions where appropriate to relate better to the proposed development. Condition 2 is necessary for the avoidance of doubt and Conditions 3, 4 and 5 are reasonable and necessary to ensure that the appearance of the development is appropriate for its location in the Conservation Area. Conditions 6 and 7 are necessary to protect the landscaped edge of the village and, in the absence of details of the sewerage arrangements, Condition 8 requires the submission and approval of these in order to protect the environment.
 8. A condition requiring the cutting back of the hedge to improve the visibility splay would be damaging to the character and appearance of the Conservation Area. Additionally it is not clear whether the appellant has control over the distance specified to achieve the extent of visibility splay suggested. As the vehicular access already exists to serve one dwelling, I do not consider that highway safety would be prejudiced in the absence of a larger visibility splay. However I have imposed Condition 9 for widening the access to allow for two-way traffic.
 9. The Council has referred to the development being on garden land but not in the terms that the government expressed in the context of ministerial statements of last year relating to 'garden grabbing' and the subsequent revision of Planning Policy Statement 3: Housing removing garden land from the definition of previously developed land. I have had regard to government policy in respect of the development of garden land and I am satisfied for the reasons given above and having taken into account all relevant matters, including the views of neighbours, that the proposal represents an acceptable form of development. I conclude that the appeal should be allowed.

P N Jarratt

Inspector