



Appeal Decision

Site visit made on 2 November 2011

By Ray Wright BA(Hons) DipTP MRTPI

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

Decision date: 6 December 2011

Appeal Ref: APP/J1915/A/11/2157344
123/125 Bengoe Street, Hertford, SG14 3EX

- 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 Justin Bennett against the decision of East Herts Council.
 - The application Ref 3/11/0385/FP, dated 3 March 2011, was refused by notice dated 3 May 2011.
 - The development proposed was described as 'Amalgamation of Nos: 123 and 125 Bengoe Street into one property. Demolition of parts of both properties. Side extension to No:123.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the character and appearance of the Hertford Conservation Area, and the effect on the living conditions of future occupiers at 123 and 125 Bengoe Street.

Reasons

Effect upon the character and appearance of the conservation area.

3. The appeal properties consist of a Victorian two storey house, and a separate bungalow, which are located in the north section of the extensive Hertford Conservation Area.
 4. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places an obligation on decision makers to pay special regard to the desirability of preserving or enhancing the character or appearance of conservation areas. Policies BH5 and BH6 of the East Herts Local Plan Second Review (LP), mirror this with a commitment to preserving or enhancing such areas. Both indicate development should be sympathetic in terms of scale, height, proportion, form, materials and siting.
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5. National policy in Planning Policy Statement 5: *Planning for the Historic Environment* (PPS5), provides advice on planning applications affecting designated heritage assets such as conservation areas. Policy HE7 sets out the need to identify and assess the particular significance of any element of the historic environment and policy HE9 sets out the presumption in favour of the conservation of heritage assets.
6. Together with no. 121 and The Yews, 123 Bengoe Street forms a small enclave of what appear to have been linked historic buildings related to a large estate, (main house, stables and staff accommodation). The bungalow at 125 is a much later addition. These are now all in independent residential use.
7. The house at 123 is white rendered with slate roof and set back behind a brick wall frontage boundary, garden and parking area. The bungalow at 125 currently has its own rear garden and parking space. There are clear views of 123 from Bengoe Street and from the cul de sac of modern properties to the rear at Lodge Close. A footpath linking the two roads down the side boundary of 125 also provides public views of the site. The appeal properties and their curtilage are therefore clearly visible from the public realm and I conclude the house at 123, together with the others in this small group, make a positive contribution to this section of the Conservation Area.
8. As part of the proposals an existing front porch at 123 would be removed, re-positioned, and replaced by one of an improved design. Also a later addition to 123 and small rear section of 125 are proposed to be demolished. The Council has not objected to these elements and it is understood that consent has been granted for the demolition works. I agree that these elements are appropriate and acceptable.
9. The main part of the proposal is a two storey side extension to 123 that would be sited close to the bungalow, but there is no characteristic spacing of buildings in this area, and so the overall pattern of development would not be adversely affected by this arrangement.
10. The property currently presents a simple symmetrical front elevation which is not affected by the off centre ridge line of the roof. The proposed set-back of the side extension by approximately one metre, would disrupt this symmetry, creating a clear break in the main frontage elevation and create an associated shadow line. While visually the eaves and ridge lines of the extension could be seen to follow those of the existing property, the set-back would draw attention to the extension, which would appear as an obvious later addition and provide an unfortunate unbalanced elevation.
11. The rear and side elevations of the property are also considered important to the appearance of the Conservation Area. Due to the depth of the proposed extension at ground floor level, a 'catslide' roof would be introduced over the rear dining area. The expanse of roof created, together with the roof dormer and extensive glazed doors at ground level, would be discordant and sit uncomfortably with the simple and plain rear elevation of the main house. To the side the set back of the extension and its roof form, together with the uncharacteristic high level windows to the proposed dining/ kitchen area, would again fail to integrate successfully with the main dwelling.

12. In this case, even though the proposal would affect only a relatively small part of the extensive Conservation Area, there would be harm, albeit less than substantial harm, to the character and appearance of this designated heritage asset. The benefit to the appellant, in providing extra accommodation, does not outweigh the harm identified. For all of the above reasons I conclude that the two storey extension as proposed would fail to preserve the character and appearance of the Conservation Area. The proposal is therefore contrary to Policy BH5 of the LP and PPS5.

Living Conditions

13. The appellant owns both 123 and 125 and wishes to provide accommodation for his ageing parents in the bungalow at 125 Bengeo Street. He therefore wishes to provide a level of independent accommodation in 125, while it remains ancillary to and within the curtilage of the main house at 123. Such arrangements are not uncommon and future use could be controlled by condition or agreement if required, as set out in Policy ENV8 of the LP.

14. The overall use of the site as proposed would allow for suitable shared garden and other linked space to be provided. The impact of combining the units in one curtilage would be limited and could result in a reduction in activity at the site.

15. For the reasons outlined there would be no conflict with Policy ENV 1 of the LP which refers to environmental quality, or PPS 1, in respect of the use or relationship between buildings.

Conclusion

16. Whilst I have found in favour of the proposal in relation to the second issue, I have concluded that it would be harmful to the character and appearance of the Conservation Area. For the reasons given and having regard to all other matters raised I conclude the appeal should be dismissed.

Ray Wright

INSPECTOR



Appeal Decision

Site visit made on 23 November 2011

by **Martin Joyce DipTP MRTPI**

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

Decision date: 6 December 2011

Appeal Ref: APP/J1915/X/11/2159117

82 South Street, Bishop's Stortford, Hertfordshire CM23 3BG

- 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 Mrs Hina Belitz against the decision of the East Hertfordshire District Council.
- The application, Ref: 3/11/0485/CL, dated 21 March 2011, was refused by notice dated 18 May 2011.
- The application was made under Section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a Certificate of Lawful Use or Development is sought is a proposed use of the premises for Class A1, A2, A3 or A4 purposes.

Summary of Decision: The appeal is dismissed.

Application for costs

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

Main Issue

2. The main issue is whether, at the date of the application for an LDC, the lawful use of the premises fell within Class A4 of the Town and Country Planning (Use Classes)(Amendment)(England) Order 2005 (UCO).

Reasoning and Appraisal

3. The appeal property is a two-storey terraced building situated on the western side of South Street, close to the town centre of Bishop's Stortford. It was built in the early 19th century and used as a public house until its closure in about 1970. In 1973 planning permission was granted for the use of the building as a youth centre. This was a temporary permission in order not to prejudice a road scheme planned for the area. A series of further temporary planning permissions were, however, subsequently granted with the last of these expiring on 31 December 1983.
4. It is the appellant's case that, following the expiration of a temporary planning permission, the lawful use of the property should revert to the previous lawful use which is that of a public house¹. This use falls within Class A4 of the UCO thus, under the provisions of Part 3 of that Order, a change of use to any use within Classes A1, A2, A3 or A4 would be lawful. The Council, however,

¹ Under the provisions of Section 57(2) of the Town and Country Planning Act 1990.

disagree with this, as they have evidence which shows that the use of the property as a youth centre continued until 2007, albeit without any further grant of planning permission. As the Council would then have been unable to enforce the cessation of that use, through the passage of time², the youth centre use has become the lawful use of the appeal property.

5. The issue before me is a narrow one, concerning the lawful use of the appeal property at the date of the application for a LDC. This requires examination of the facts of the case relating to the use of the appeal property.
6. It is not disputed that the original public house use ceased in 1970, or that a Church Youth Centre use commenced, following a grant of time-limited planning permission in 1974³. That permission expired on 31 December 1974, but four further time-limited permissions were granted for the continuation of that use, the last of which (Ref: 3/80/1424/FP), dated 10 December 1980, required cessation of the use by 31 December 1983.
7. I am satisfied that, despite that condition, the use did not cease as required. The Council has supplied evidence, which is not contested by the appellant, in the form of an email from Hertfordshire County Council (HCC) dated 17 May 2011, which states that HCC purchased the appeal property on 2 November 1979, when it was already in use as a youth centre by the Kings Arms Trust. The email goes on to state that the property was then let to the Trust for it to continue to be used as a youth centre and that they did not cease using it for those purposes until 2007. They remained, however, as tenants, before handing the keys back to HCC in March 2009. The property was thereafter marketed for sale, with a stated lawful use for "community purposes". The sale of the property was completed on 7 February 2011.
8. The undisputed continuation of the youth centre use from 1983 to 2007⁴, over a period of approximately 23 years, is, in my view, crucial in the decision as to the lawful use of the appeal property. The Council would have been unable to take enforcement action to require cessation of that use even if it had wished to, after the passage of ten years from 31 December 1983. The youth centre use therefore became lawful after 31 December 1993, notwithstanding that no application was made for a Lawful Development Certificate for that use, by virtue of the provisions of Section 191(2) and/or 191(3). Moreover, the fact that HCC marketed the property with a lawful use for community purposes supports a view that the current lawful use of the appeal property is that of a youth centre.
9. In addition to the above considerations, and notwithstanding that it has not been raised by the parties, the well established principle of abandonment may be relevant in this case, in respect of the former public house use. This does not affect my decision either way but, on the facts of the case, the cessation of that use in 1970, and the consequent extended youth centre use, could be taken to be an abandonment of that former use.
10. It follows that the right to revert to a previous lawful use upon the expiration of a time-limited planning permission, under Section 57(2), was lost when the use of the property as a youth centre became immune from enforcement action. In

² In accordance with the provisions of Section 171B(3) of the Town and Country Planning Act 1990.

³ Planning permission Ref: E3/5448-73, dated 28 January 1974.

⁴ It may be that the use continued until 2009, when the keys to the property were returned to the owners, but the additional two year period does not make a material difference to the principles under consideration.

effect, the youth centre use supplanted the former use of the property as a public house. Therefore the property does not have a Class A4 use, and a use within any of Classes A1, A2, A3 or A4 of the UCO would not be lawful. In these circumstances, the appeal against the refusal of the Council to grant an LDC must fail.

Other Matters

11. All other matters raised in the written representations have been taken into account, but they do not outweigh the conclusions reached on the main issue of this appeal.

Conclusions

12. For the reasons given above I conclude that the Council's refusal to grant a Certificate of Lawful Use or Development in respect of a proposed use of the premises for Class A1, A2, A3 or A4 purposes was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in Section 195(3) of the 1990 Act as amended.

FORMAL DECISION

13. The appeal is dismissed.

Martin Joyce

INSPECTOR



Appeal Decision

Site visit made on 6 December 2011

by Robin Jacques MSc BSc(Hons Arch) RIBA FRSA

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

Decision date: 16 December 2011

Appeal Ref: APP/J1915/H/11/2160228

4 Star Street, Ware, Hertfordshire SG12 7AA

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Mick Nicholls, WHABS Ltd, against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/0531/AD, dated 28 March 2011, was refused by notice dated 13 July 2011.
 - The advertisement proposed is WHABS sign illuminated by LED lights.
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The Appeal Signs

1. The retrospective application for consent to display an advertisement refers to one sign, but describes two, and it is not in dispute that there are two signs. Having regard to various discrepancies in the descriptions in the appeal documentation, for the avoidance of doubt, I have adopted the description given in the appellant's appeal statement, which I find to be reasonably representative of the drawings, and of what I saw on my site visit, as follows:

Sign 1 – Fascia sign 2.5m above ground, letters 0.546m high on a fascia 0.625m deep and 9.5m long. The individual halo- illuminated letters occupy a length of 6.89m and project 100mm from the fascia, which is not otherwise illuminated.

Sign 2 – Fascia sign 5.0m above ground, an individual halo-illuminated letter 'W' 1.2m high, with 5 non illuminated letters 'WHABS' 0.46m high on a non-illuminated fascia 1.08m high and 2.3m long. The 'W' projects 100mm from the fascia.

Decision

2. I dismiss the appeal.

Main issue

3. I consider that the main issue in this appeal is the matter of amenity, being primarily the effect of the signs on the character or appearance of the Ware Conservation Area (CA).

Reasons

4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention must be paid to the desirability of preserving or enhancing the character or appearance of the area. A strict control over the display of outdoor advertisements should therefore be

maintained. These aims are reflected in policies from the development plan referred to by the Council, which are a material consideration in my decision.

5. The appeal premises consist of a two storey semi-detached warehouse-style building. The advertisements are in a highly visible position within the CA, and in views on the approach to it on Star Street and from Bowling Road opposite the premises. On my site visit I saw the signs both in daylight and after dark, during which times they were not illuminated. However, I saw another sign at the rear of the appeal property that appeared to be similar to Sign 2, and to be halo illuminated as described in the submissions. Whether or not it is identical in size or in other respects, it is not a sign included in the appeal before me. I have also had reference to the photographs submitted of the signs at night.
6. Within the CA, the main shopping street and the adjacent lanes have a distinctive period character made up of a mixture of premises of a variety of styles and periods, many of which I understand to be listed buildings. There are residential and office uses above many of the ground floor uses. It is notable that generally the advertising signs do not extend above shop fascia level. Where there is no fascia, signage is limited to areas below first floor window cills. This freedom from clutter enables the architectural styles and the period character of the buildings to make a positive contribution to the historic character and appearance of the CA.
7. The former fascia at the premises was white with blue stripes and applied lettering, illuminated by three floodlights on brackets, according to the submitted photographs. However, I have considered the replacement appeal sign on its own merits. The informal style of the new fascia lettering takes the capital letters of 'Ware Bathroom Centre' very close to the vertical limits of the fascia on which they are mounted. However, overall the lettering is adequately contained below the upper window cills. Its scale and character is not unacceptably in conflict with the bold proportions and utilitarian warehouse character of this particular building. For the same reason I see no objection to the use of dark blue powder-coated stainless steel as a material for the individual letters.
8. The showroom has large windows at both ground and first floor level, and the internal illumination of their displays is prominent in the street scene, certainly during its opening hours and especially in the winter darkness. The halo illumination of the sign appears to me to be of an acceptably low level in that context, during periods when the shop is open. However, when the shop is closed, when I understand that the display windows would not normally be lit, the halo illumination of the lettering would be far more prominent.
9. Planning Policy Guidance 19 - *Outdoor Advertisement Control* provides that the normal range of advertisements on commercial premises is to be expected in Conservation Areas, provided they do not detract from visual amenity. Although the adjacent Public House has strings of lights to gable ends facing the road, its signage consists of an externally illuminated sign at low level on its side elevation, and a non-illuminated projecting pub sign. The illumination of signs is relatively rare within the CA as a whole, and the appeal site is slightly beyond the main retail area of the town. This context reinforces my opinion that the effect of the illumination of Sign 1 would be harmful to visual amenity during the hours of darkness outside of shop opening times.
10. Through the appeal the appellant proposes that a condition limiting the intended hours of illumination to 2300hrs would be acceptable. However, for

the reasons given above I consider that illumination outside of shop opening hours would be inappropriate. In my view this would depart unacceptably from the aims and objectives of saved Policy BH15 of the East Herts Local Plan Review 2007 (LP) that advertisements shall preferably be non-illuminated within the CA.

11. Sign 2 at high level above the first floor windows contributes to an impression of a proliferation of advertising on the building. Whether or not illuminated, it would contrast unacceptably with other premises within the CA with first floor occupancy, and the carefully maintained absence of commercial signage on the upper facades of buildings within the CA. Its illumination would add further harm to the character and the appearance of the historic environment.
12. I note that there is substantial advertising on the side elevation of the adjoining furniture store, but this is below the cill levels of the blind windows to the upper storey. Whilst the appellant has proposed a condition requiring the electricity supply for Sign 2's illumination to be disconnected, for the reasons given above this would not be sufficient, in itself, to overcome the harm that I have found.
13. The appellant refers to the need for the advertisements, particularly given current trading conditions. However, the Regulations require decisions to be made only in the interests of amenity and, where applicable, public safety. It is the issue of visual amenity that must be decisive in my decision. I conclude that both Sign 1 and Sign 2 would fail to preserve or enhance the character or appearance of the CA as a whole.
14. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robin Jacques

INSPECTOR



Appeal Decision

Site visit made on 6 December 2011

by Robin Jacques MSc BSc(Hons Arch) RIBA FRSA

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

Decision date: 13 December 2011

Appeal Ref: APP/J1915/D/11/2163502

1 Bury Green Cottage, Bury Green, Little Hadham, Ware, SG11 2EY

- 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 Neil Frankham against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/0839/FP, dated 13 May 2011, was refused by notice dated 3 August 2011.
 - The development proposed is a new garage.
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Decision

1. I dismiss the Appeal.

Main Issues

2. I consider that the main issues are whether or not the proposal would preserve the setting of the listed building, and the effect of the proposal on the character and appearance of the site and its surroundings within the Bury Green Conservation Area (CA), including the effect on protected trees.

Reasons

3. The appeal property is a Grade II listed house, now forming two houses, dating from C16 or earlier. The listing description includes that it is built of plastered timber frame construction with a steep gabled roof now covered in asbestos slates. As I saw on my site visit, a part single, part 2 storey side extension to the left end of the appeal property is being constructed following demolition of an existing side extension, under approvals granted in 2010 (Council References 3/10/1095/FP and 3/10/1096/LB).
 4. The Council gives dimensions of the proposed garage as 6.8m long by 4.6m wide and a height to the ridge of 4.0m. It would be timber-framed, clad with weatherboarding, with side-hung timber doors and a slate tile roof. It would be sited with its side elevation facing the road in the front left corner of the site, entirely forward of the front elevation of the listed building by a distance of 4.4m according to the Council, with a gap of about 6.0m between the corner of the extended house and the nearest corner of the garage. These dimensions appear consistent with the layout shown on the submitted plan.
 5. The appeal site is set back from the road by part of an extensive village green. The green is predominantly surrounded by other dwellings of a mixture of
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periods and styles, with various roof coverings including thatch, old clay tiles and slate. Although there are other domestic garages in the area, including one to No 2 Bury Green Cottage, they are mainly set back behind the frontage lines of the associated properties. This imparts an attractively open and distinctive historic character to the CA, to which the appeal building makes a significantly positive contribution. A number of Lime trees within the site are protected by a Tree Preservation Order (P/TPO 520) and are important to the sylvan quality and rural character of the surroundings and the area.

6. In the proposed position, seen from directly in front of the site or in oblique views from the road, I consider that the proposed garage would be unacceptably prominent in the foreground of the listed building. Notwithstanding the close boarded boundary fence to part of the front boundary, it would be an intrusive insertion that would crowd and detract from the listed building's setting within its own site, as well as its wider village setting within the CA. My opinion is reinforced by the proposed substantial area of hard surfacing that would be introduced in front of the building for parking and turning, which would be alien to the historic cottage's garden setting.
7. The whole of the garage plan and part of the extended driveway access would fall within the root protection area (RPA) of protected Lime tree T1. The proposal includes a no-dig garage floor and driveway surface of '*terram cellular confinement system or similar*'. The Council reports that their Landscape Officer's objection would be overcome if the building does not require foundations. However, I note that the timber support posts would be on hand-dug foundations, according to the appellant's Design and Access Statement. Given the area of the RPA enclosed by the garage, and the limited arboricultural evidence submitted, I am not satisfied that the proposal would not be detrimental to the long term health and stability of this tree, and thus to the contribution it makes to the quality of the surroundings within the CA.
8. I share the Council's view that, in itself, the garage would not be of a scale or size that would be harmful to the open qualities of the area. As to whether the cumulative floor area with the recently approved extension may be considered to result in a disproportionate amount of built form on the site, saved Policies GBC3, ENV1 and ENV5 of the East Herts Local Plan, Second Review April 2007 (LP) do not contain any specific guidance on limits of size over and above the original dwelling. However, for the reasons given above, the siting of the appeal proposal in relation to the dwelling would unacceptably detract from the distinctive layout of the area and cause harm to the openness and character of the surroundings, contrary to the aims and objectives of those policies.
9. The appellant contends that this is the only place on the site where a garage could now go, but no substantial evidence has been submitted that other positions have been considered. Whether or not that is the case, it would not justify the harm that I have found would be caused by the appeal proposal.
10. My attention has been drawn by the appellant to comparative figures for the floor areas of the proposed extension and garage and for extensions and a garage permitted to the adjacent dwelling. Submitted photographs also show a single timber garage and storage shed on the appeal site which the appellant indicates were demolished to allow the approved extension to be built. However, I have considered the proposal before me on its own merits.

11. Having regard to Government guidance in Policy HE9 of Planning Policy Statement 5: *Planning for the Historic Environment* (PPS5), I find that the development proposed would make a negative contribution to the significance of the heritage asset, and adversely affect the ability to appreciate that significance. The designation of the CA is recognition of its importance as a heritage asset, and Policy HE7 of PPS5 requires that account is taken of the desirability of sustaining and enhancing the significance of such assets. I conclude that the proposed garage would not preserve the setting of the listed building, and would neither preserve nor enhance the character or appearance of the Conservation Area as a whole, contrary to saved LP Policy BH6 and national policies.
12. I have considered the appellant's proposal through the appeal to redesign the roof pitch with a gable end facing the road, but this would not overcome the harm that I have found. No other matter raised is such as to overcome my findings under the main issues, and for the reasons given above I conclude the appeal should be dismissed.

Robin Jacques

INSPECTOR



Appeal Decision

Site visit made on 23 November 2011

by Martin Joyce DipTP MRTPI

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

Decision date: 7 December 2011

Appeal Ref: APP/J1915/X/11/2159970

**4 Waterworks Cottage, Redricks Lane, Sawbridgeworth, Hertfordshire
CM21 0RL**

- 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.
- The appeal is made by Mrs K Green against the decision of the East Hertfordshire District Council.
- The application, Ref: 3/11/0954/CL, dated 27 May 2011, was refused by notice dated 18 July 2011.
- The application was made under Section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
- The use for which a Certificate of Lawful Use or Development is sought is the use of part of the established residential curtilage on which to station a mobile home for purposes incidental to the existing dwelling.

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 Formal Decision.

Main Issue

1. The main issue in this appeal is whether the proposal would constitute operational development or a material change of use of the land.

Reasoning and Appraisal

2. The appellant wishes to site a "Homelodge" mobile home within the residential curtilage of her house, as ancillary accommodation for her elderly parents. The unit would measure 8.45m in length, 3.85m in width and 2.2m/3.2m in height, to the eaves/ridge. It would be delivered to the site on a lorry and would be capable of removal in the same way. It would not be permanently fixed to the ground, but would be connected to services.
3. The Council accept that the dimensions of the structure could fall within those set out for a twin unit caravan in the statutory definition given in the Caravan Sites Act 1968 as amended¹ (CSA), but they consider that its size, permanence and physical attachment would be such that the siting of the unit would be operational development as defined in Section 55 of the Act, rather than a use of the land. In particular, they contend that the determining factor is whether or not the structure is of a design or size that would make it readily mobile around the site. In this context, its size, degree of permanence and impact on

¹ Sub section 13(2) as amended by The Caravan Sites Act 1968 and Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment) (England) Order 2006 (SI 2006/2374).

the character of the site lead to the conclusion that operational development would occur. Furthermore, the Council cite two items of case law, and refer to previous appeal decisions, to support their contentions in this respect.

4. In consideration of the above matters, I note at the outset that the Council do not dispute that the mobile home would be used for purposes incidental to the enjoyment of the dwellinghouse as such, notwithstanding that occupiers of the mobile home would have facilities that would enable a degree of independent living. The appellant's claim that it would be akin to a "granny annexe" is not therefore at issue, only the question of whether the proposal would be operational development or, as is normally the case, a use of the land.
5. Neither of the cases that the Council rely on relates to the siting of mobile homes or caravans, rather they concern other structures such as a wheeled coal hopper² and a tall mobile tower³. Similarly, the three appeal decisions referred to by them concern the siting of portacabins on land and whether that is operational development or a use of land. I can, therefore, give little weight to these cases and decisions in my determination of this appeal as they do not concern the siting of caravans or mobile homes and are, thus, materially different development. Additionally, I consider that the Council are misguided in their statement that the determining issue is whether the mobile home would be readily moveable around the site. That is not the correct test; rather the test is whether the unit, once fully assembled, is capable, as a whole, of being towed or transported by a single vehicle⁴. In this case, the appellant's statement that this would be the case has not been contradicted. A lack of intention to move the unit around the site is not relevant to the main issue, and would apply to most "static" caravans on any lawful caravan site.
6. The size of the proposed mobile home falls well within the dimensions set out for twin units in the CSA as amended, notwithstanding that it is not specified as a "twin unit", but it appears that the Council consider that its positioning would create a degree of permanence and impact on the character of the site. Impact on character is also of no relevance in a case where the lawfulness of a use is at issue, but the question of permanence is a matter of fact and degree that relates to physical attachment to the ground.
7. In this case, the mobile home would be placed on padstones and is likely to be attached to services such as water, drainage and electricity, although the precise services are not specified in the application. However, attachment to services is not the same as physical attachment to the land, as they can easily be disconnected in the event that the caravan needs to be moved. Additionally, the placing of the mobile home on padstones, or another sound and firm surface, is not, in itself, a building operation as suggested by the Council, notwithstanding that a degree of skill is required in such placement. I know of no support in legislation or case law for such a proposition and the provision of a hard surface within the residential curtilage would, subject to certain limitations, be permitted development under Class F of Part 1 of Schedule 2 to The Town and Country Planning (General Permitted Development) Order 1995 as amended. The Council are, therefore, incorrect in this instance in their interpretation of the permanence of the mobile home as an indication of operational development rather than a use of the land.

² *Cheshire CC v Woodward* [1962] 2 QB 126

³ *Barvis Ltd v Secretary of State for the Environment* [1971] 22 P&CR 710

⁴ *Carter v Secretary of State* [1995] JPL 311

8. I conclude that the proposed development would not constitute operational development, rather it would involve a use of land. As that use would fall within the same use as the remainder of the planning unit, it would not involve a material change of use that requires planning permission.

Other Matters

9. All other matters raised in the written representations have been taken into account, but they do not outweigh the conclusions reached on the main issue of this appeal.

Conclusions

10. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a Certificate of Lawful use or development in respect of the use of part of the established residential curtilage for the stationing of a mobile home for purposes incidental to the existing dwelling was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under Section 195(2) of the 1990 Act as amended.

FORMAL DECISION

11. The appeal is allowed and attached to this decision is a Certificate of Lawful Use or Development describing the proposed use which is considered to be lawful.

Martin Joyce

INSPECTOR



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 27 May 2011 the use 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 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed use would be incidental to the residential use of the planning unit and would not constitute operational development for which a grant of planning permission would be required.

Signed

Martin Joyce

Inspector

Date: 07.12.2011

Reference: APP/J1915/X/11/2159970

First Schedule

The use of part of the established residential curtilage on which to station a mobile home for purposes incidental to the existing dwelling.

Second Schedule

Land at 4 Waterworks Cottage, Redricks Lane, Sawbridgeworth, Hertfordshire
CM21 0RL

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 use 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, was not liable to enforcement action, under Section 172 of the 1990 Act, on that date.

This Certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use 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

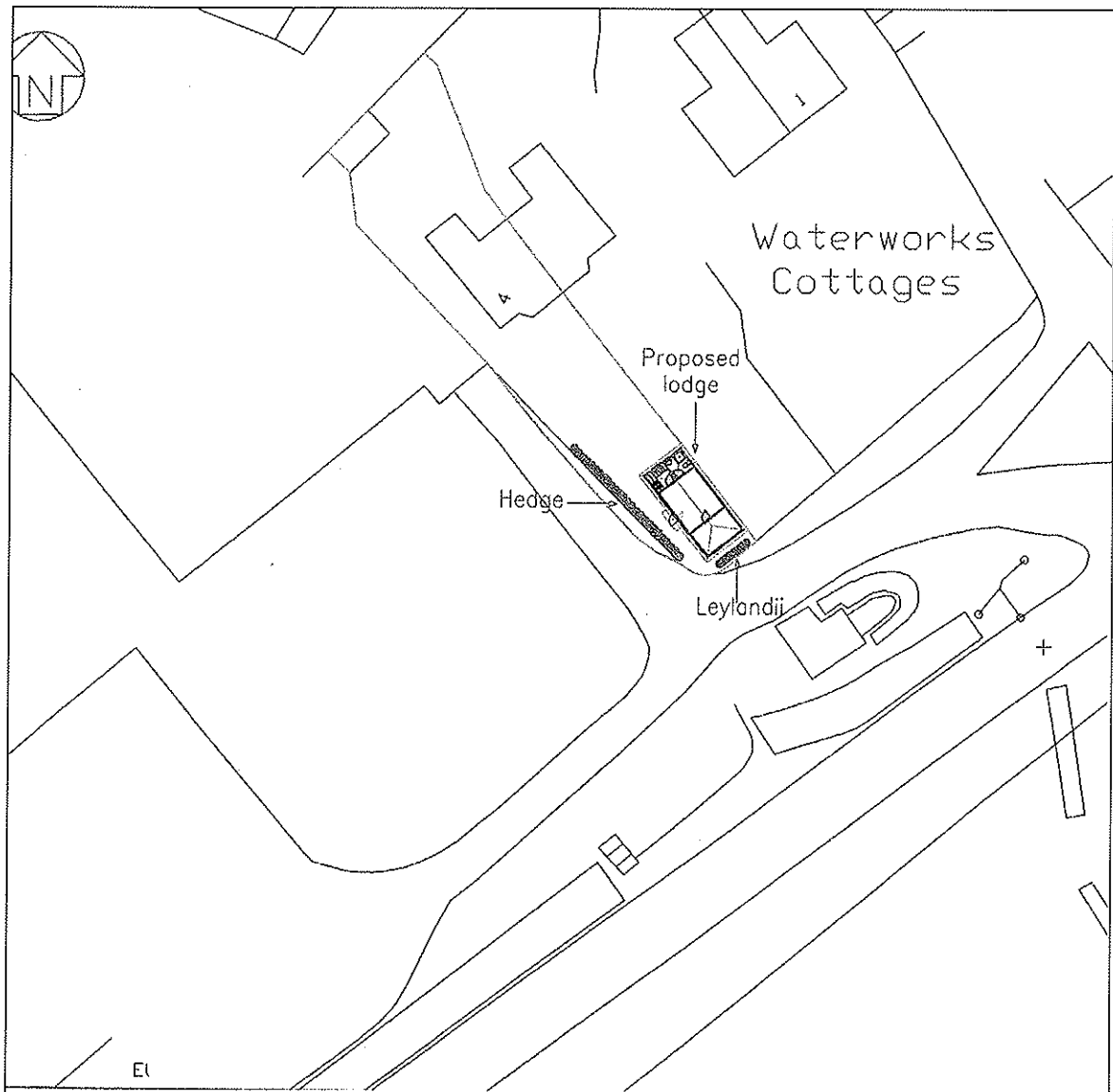
This is the plan referred to in the Lawful Development Certificate dated: 07.12.2011

by **Martin Joyce DipTP MRTPI**

**Land at: 4 Waterworks Cottage, Redricks Lane, Sawbridgeworth, Hertfordshire
CM21 0RL**

Reference: APP/J1915/X/11/2159970

Scale: Not to scale





Appeal Decision

Site visit made on 24 November 2011

by **P G Horridge BSc(Hons) DipTP FRICS MRTPI**

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

Decision date: 7 December 2011

Appeal Ref: APP/J1915/D/11/2162917

Great Cozens, Fanhams Hall Road, Ware SG12 7PU

- 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 Alan Fordham against the decision of East Herts Council.
 - The application Ref 3/11/0955/FP, dated 27 May 2011, was refused by notice dated 26 July 2011.
 - The development proposed is a new garage.
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Procedural Matters

1. The above description of development is taken from the application form. The council's decision notice refers also to 'associated landscaping'. The works shown on the plans include the creation of a large gravelled manoeuvring area in front of the garage, as an extension to the existing drive, together with the installation of a stone statue. The former has been considered as part of this application, but not the latter as full details were not included. The drawing entitled 'Landscape Proposals' has therefore been treated as being for illustrative purposes and not a formal part of the application.

Decision

2. The appeal is dismissed.

Main issue

3. At issue is the effect of the proposed garage on the setting of the nearby listed building, Great Cozens.

Reasons

4. Reference is made in the representations to the fact that the site lies within the Green Belt. However, the council appears to take no issue in respect of Green Belt policy, noting that the proposal causes no detriment to the open character of the Green Belt. On the basis of the council's position, I conclude that the proposal is regarded as appropriate development within the Green Belt, amounting to the limited extension or alteration of an existing dwelling.
5. Great Cozens is a Grade II listed building, of Regency style with rendered walls and a slate roof. The proposed garage would be located to the south of it, in

an area presently down to lawn with agricultural land beyond which provides an open setting for the building. The new building would be of a different architectural style and materials, with weatherboard cladding to the walls and a plain clay tile roof. This would make it appear an incongruous feature within this setting, an incongruity which would be further emphasised by the asymmetry of the hipped roof.

6. These shortcomings are partly mitigated by the fact that the building would also relate to other mainly single-storey buildings within the complex to the north and west of Great Cozens. These buildings are of varying designs and styles, but retain a subservience to the principal building, as would the proposed building. However, these other buildings are more visually distinct from Great Cozens by virtue of their location beyond the hedge and gate denoting its main garden area, whereas the proposed building would be within this area and read more intimately with the main house. While the distance of the building from the main house means that its length would not necessarily compete with that of the main house, the length of the building would add to its visual impact and thereby its incongruity. Although the hedge to the rear of the building would conceal some elements of it, particularly the large expanse of tile on the west elevation, it would not offer any mitigation to views of the building within the setting of the host listed building. The harm to this setting would be exacerbated by the increased area of gravelled hardstanding that would be created in front of the building.
7. Although planning permission has been previously granted for a different building in a broadly similar location, little weight can be attached to this as permission has now expired.
8. Overall the proposal would adversely affect the setting of the listed building. Although no reference is made to conflict with any policies in the development plan, this would be contrary to national planning guidance in PPS5 (particularly Policies HE7 and HE9).

Peter Horridge

INSPECTOR



Appeal Decision

Site visit made on 6 December 2011

by **Michael Evans** BA MA MPhil DipTP MRTPI

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

Decision date: 8 December 2011

Appeal Ref: APP/J1915/D/11/2163823

North Lodge, Walkern Road, Watton At Stone SG14 3RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Timothy Childs against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/1080/FP, dated 15 June 2011, was refused by notice dated 11 August 2011.
 - The development proposed is a single storey extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the consideration of this appeal are:
 - Whether the proposed development amounts to inappropriate development in the Green Belt for the purposes of Planning Policy Guidance Note 2: *Green Belts* (PPG2).
 - The effect on the openness of the Green Belt.
 - The effect on the character and appearance of the host dwelling.
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development

3. The appeal site is located within the Metropolitan Green Belt where Government policy in PPG2 indicates a presumption against inappropriate development. The guidance identifies development that would not be inappropriate. The extension of dwellings is not inappropriate provided it does not result in disproportionate additions over and above the size of the original

building. Inappropriate development should not be approved unless there are very special circumstances so that the harm caused is clearly outweighed by other considerations. It is for the Applicant to show why permission should be granted.

4. The Council explains that the dwelling has previously benefited from the construction of two storey and single storey extensions, which have resulted in the footprint of the original dwelling increasing by about 100%. The current proposal would further increase this by approximately 20%. Consequently, the footprint would have more than doubled in extent and this is not disputed.
5. The Appellants argue that the addition itself is not excessive in size but this disregards the requirement to take into account the cumulative effect of previous extensions. If this were not the case a series of individually small extensions could be built at this site and others that would cumulatively undermine the overall policy to restrain development in the Green Belt.
6. As a result, it is concluded that the scheme would involve a disproportionate increase in size relative to that of the original dwelling and, therefore, constitutes inappropriate development in the Green Belt. Under the terms of PPG2 inappropriate development is by definition harmful to the Green Belt and such harm must be accorded substantial weight. The proposal is also contrary to East Herts Local Plan Second Review, April 2007, Policy ENV5, which seeks to prevent disproportionate extensions outside certain settlements, as in this case.

Openness of Green Belt

7. The effect on openness is a function of the physical presence of development rather than whether it would be seen from any particular viewpoint, so that the extent to which visibility of the addition would be restricted has no bearing on this assessment. Although partly in a recessed corner, the pitched roof addition would also project beyond the end of the immediately adjacent two storey gable and there would be a modest reduction in the openness of the Green Belt. It is explained in PPG2 that the most important attribute of Green Belts is their openness. As a result some weight should be afforded to this adverse effect.

Character and appearance of host dwelling

8. The existing dwelling is partly characterised by a series of relatively steeply pitched gables. The proposed addition would introduce an additional gable end, while being subordinate in height, width and overall bulk to the host property. The size and scale of the addition would not therefore have a detrimental effect. In consequence, the proposal would reflect the already distinctive dwelling but not enhance it, as the Appellants suggest. Despite the Council indicating that the addition would be attached to part of the original building, it is therefore concluded that the character and appearance of the dwelling would not be harmed, in accordance with this objective of Local Plan Policy ENV5.

Other considerations

9. The Appellants refer to the conversion of the nearby Listed Building at Frogmore Hall to apartments with the construction of extensions and a new house. The current appeal differs in that it concerns the extension of a single existing dwelling that is not a Listed Building and might well therefore raise different issues. However, without the full details and background of the neighbouring development no meaningful comparison can be made with the current proposal, which must be considered on its own merits.
10. The Appellants also refer to matters such as the need for additional kitchen space, the inconvenience of the route from the kitchen to the garden and the absence of a level entrance. However, there is no evidence from a relevant professional, such as a building surveyor, that an extension is the only way to secure a level access. In any case, these are not substantial problems which raise fundamental questions about the acceptability of the residential environment and they have clearly not affected the ongoing occupation of the building as a dwelling.
11. The possibility of amending the proposal is raised. However, no revised drawings have been provided and the appeal must be considered on the basis of the plans which the Council considered. The use of appropriate materials is a general requirement that cannot weigh positively in favour of the proposal so as to offset other adverse effects.
12. In consequence, the above considerations, including all other matters raised and the absence of harm in relation to character and appearance, can only be afforded little, if any weight, in favour of the proposal.

Conclusion

13. As a result of the above conclusion, the harmful effects in respect of inappropriateness and openness are not clearly outweighed. There can, in consequence, be no very special circumstances and the proposal is also contrary to Local Plan Policy GBC1, which closely reflects PPG2. It is therefore determined that the appeal fails.

M Evans

INSPECTOR



Appeal Decision

Site visit made on 6 December 2011

by **Michael Evans** BA MA MPhil DipTP MRTPI

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

Decision date: 8 December 2011

Appeal Ref: APP/J1915/D/11/2163605
98 The Avenue, Hertford SG14 3DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Roberts against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/1199/FP, dated 4 July 2011, was refused by notice dated 9 September 2011.
 - The development proposed is a two storey front extension with a garage to the side.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal can most appropriately be described as given in the header above and it is on the basis of this description that the appeal will be considered.

Main Issue

3. The main issue in the consideration of this appeal is the effect on the streetscene and the character and appearance of the area.

Reasons

4. The appeal concerns a two storey detached dwelling with gable ends and a flat roof ground floor projection at the front. The new garage would angle away from the side boundary and also be set back significantly from the road. In consequence, this part of the development would not detract from the spaciousness of the front of the site or appear cramped.
5. As the Council suggests, the adjacent dwelling at no. 96 and two others on the opposite side of the road are of a particularly similar design. Moreover, there are also other adjacent two storey detached dwellings to the east, on both sides of the road, with a similarly flat elevation at first floor level, lacking any front projections at this height. The neighbouring dwelling at no. 96 has only been altered at ground floor level, so that this has no significant effect on the regularity of the upper part of the relevant properties.

6. The dwelling at the appeal site relates closely to these other properties and is particularly readily seen in conjunction with those on the same side of the street. This is despite the fact that those to the east are modestly tilted in that direction, whereas those at nos. 96 and 98 are angled in the opposite direction. It is acknowledged that the dwellings in the vicinity are of no significant architectural merit in themselves but they, nevertheless, exhibit a significant degree of cohesion as a group and contribute to a relatively harmonious streetscene.
7. It is therefore these dwellings that provide the context against which the impact of the proposal should be assessed. As a result the diversity of design found in the wider area lends no significant support to the appeal. Equally, the specific sites referred to by the Appellants, including those shown in the submitted photographs, that concern dwellings with front gables are located outside the relevant group and not therefore of significance. In any event, without the full details and background of the other cases no meaningful comparison can be made with the current proposal, which must be considered on its own merits.
8. The width of the front elevation at two storey height would not be increased. The Appellants also point out that the dwelling would only be extended forward by a metre at two storey height beyond the existing ground floor element. It is accepted that there would be no detrimental effect on the spaciousness of the front garden. However, despite factors such as these, the degree of projection of the upper part of the extension from the existing roof would be significant and the ridge would only be just below that of the main roof. Consequently, the proposal would introduce a gabled projection of appreciable bulk and mass at first floor level into a group of dwellings where such features are not present. The extended dwelling would therefore appear unduly prominent, constituting an alien and intrusive presence in the streetscene.
9. The relatively modest shrubs and trees in the vicinity would not prevent these adverse effects being readily apparent from the street, especially in views through the access and during periods of leaf fall. The proposal would remove the ground floor flat roof at the front but this could be done without constructing a two storey extension.
10. It is therefore concluded that the streetscene and the character and appearance of the area would be harmed. The proposal would also fail to reflect local distinctiveness, contrary to this central aim of East Herts Local Plan Second Review, April 2007, Policy ENV1. Furthermore, there is conflict with ENV1 (c) because the first floor massing would not relate well to adjacent buildings. Compliance with Policy ENV1 (e) concerning energy conservation does not remove the need to comply with other parts of the policy. Policy ENV5 requires all proposals to be assessed against the criteria of Policy ENV6. The adverse effect of the gable fronted design on the setting of the dwelling means that there is also conflict with Local Plan Policy ENV6 (a).
11. The absence of objections from local residents or the Town Council is not, in itself, a factor that confers acceptability on the proposal as it has no bearing on the planning merits of the scheme. The Appellants' desire for additional space to provide accommodation for their daughters and elderly relatives is

acknowledged. However, in this case such provision would be achieved at the undue expense of the character and appearance of the area.

12. The garage element of the proposal is acceptable in itself. However, it would abut the two storey extension and the roof would wrap around the front of the extended dwelling. It is not therefore readily severable and capable of being independently constructed using the submitted plans. Consequently, in this case a split decision would not be appropriate.
13. Taking account of all other matters raised, it is therefore determined that the appeal fails.

M Evans

INSPECTOR



Appeal Decision

Site visit made on 24 November 2011

by **P G Horridge BSc(Hons) DipTP FRICS MRTPI**

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

Decision date: 5 December 2011

Appeal Ref: APP/J1915/D/11/2163437

4 Downfield Court, Hanbury Drive, Thundridge SG12 0SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D & Mrs S Thaker against the decision of East Herts Council.
 - The application Ref 3/11/1305/FP, dated 21 July 2011, was refused by notice dated 14 September 2011.
 - The development proposed is demolition of existing single storey extension and erection of proposed part two storey part single storey side extension and internal and external alterations including new ensuite on second floor.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing single storey extension, the erection of a part two storey part single storey side extension, and internal and external alterations including a new ensuite on second floor at 4 Downfield Court, Hanbury Drive, Thundridge in accordance with the terms of the application, Ref 3/11/1305/FP, dated 21 July 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: 10455-S001 and 10455-P001A.
 3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main issues

2. At issue are: (1) whether the proposed works amount to inappropriate development within the Green Belt and, if so, whether very special circumstances exist for permitting such development, and (2) the effect of the proposal on the appearance of the locality.

Reasons

3. The site lies within the Metropolitan Green Belt, where there is a presumption against inappropriate development. Under Policies GBC1 and ENV5 of the East
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Herts Local Plan Second Review (2007) (LP), limited extensions to existing dwellings are not inappropriate development provided that they are of a scale and size that would, either by themselves or cumulatively with other extensions, not disproportionately alter the size of the original dwelling.

4. The proposed extension would replace and be in the same general location as existing single storey extensions to the side of the building. Its overall footprint would not be significantly larger than the extensions that it would replace, but the inclusion of two-storey elements would increase the floorspace of the dwelling. The council says that this increase would be 72%, but on behalf of the appellants it is argued that the increase in internal floorspace would be less than 50%. Given these contrasting figures, and the absence of any numerical standards in local planning policies for assessing what is 'limited' and what is 'disproportionate', a judgement needs to be made on the basis of a qualitative rather than quantitative assessment of the proposals.
5. The two-storey element of the extension would increase the perceptible mass of the dwelling. However, its ridge line would be below and therefore subservient to that of the original building. This, together with its set back from the front wall of the property, means it would not compete with or detract from the front gable which is an important element of the property's character. The single storey part of the extension would have a lesser visual impact than the existing single storey study which it would replace, as it would not extend so far as the existing building and would have a hipped rather than a gable roof. The overall design and appearance of the extensions would complement and blend in with the main building, thereby according with the requirements of LP Policy ENV6 which sets out criteria for considering proposals for extensions to dwellings. The extensions would be of a comparable scale to those approved at 2 Downfield Court at the opposite end of the terrace of 3 dwellings. When viewed in the context of the overall building of 2-4 Downfield Court, which appears to have been a single original dwelling, the proposed extensions would not appear disproportionate.
6. Taking all these points into account, the extensions not would be of a scale and size that would disproportionately increase the size of the original dwelling, nor would they be out of keeping and detrimental to the character of the existing dwelling.
7. The appeal property is located in a small complex of dwellings. As well as the two dwellings at 2 and 3 Downfield Court to the east, to which it is attached, there are further dwellings and garage buildings to the west and north. The extensions would replace existing single storey extensions in the garden area between 4 and 5 Downfield Court. They would be seen within a complex of existing buildings and would have little impact on the wider rural area beyond this complex. As such they would not intrude into the openness or rural qualities of the surrounding area, nor would there be a conflict with LP Policy ENV1 dealing with the design and environmental quality of new development.
8. Having regard to the above considerations, the proposal would not amount to inappropriate development in the Green Belt nor harm the appearance of the locality. Since inappropriate development is not involved, there is no need to consider whether very special circumstances exist. The proposal would not conflict with relevant development plan policies, notably saved Policies ENV1,

ENV5, ENV6 and GBC1 of the East Herts Local Plan Second Review. Planning permission is granted subject to conditions specifying the plans to which it relates, in the interests of clarity, and requiring matching materials, in order to ensure a satisfactory appearance to the completed development.

Peter Horridge

INSPECTOR