

5g a) 3/12/0252/FP – Demolition of an existing pair of semi detached dwellings and erection of a single replacement dwelling for occupation by an agricultural worker at Plot 1, Penny Royal, Bucks Alley, Bayford, SG13 8PY for Mr Alan Fitzjohn; and

**b) 3/12/0253/FP – Erection of detached agricultural worker's dwelling at Plot 2, Penny Royal, Bucks Alley, Bayford, SG13 8PY for Mr Alan Fitzjohn**

**Date of Receipt:** (a) 17.02.2012  
(b) 17.02.2012

**Type:** (a) Full – Minor  
(b) Full – Minor

**Parish:** BAYFORD

**Ward:** HERTFORD – RURAL SOUTH

**RECOMMENDATION:**

a) That, in respect of application ref: 3/12/0252/FP, planning permission be **REFUSED** for the following reason:

1. The Council is not satisfied that the replacement dwelling cannot be built at the front of the site in the location of the existing dwelling. The proposed dwelling by its siting and design fails to respect the pattern of building at the site and would inhibit the ability of the site to provide for two replacement agricultural workers dwellings for Bucks Farm. The proposal is thereby contrary to Policies HSG7 and ENV1 of the adopted East Herts Local Plan Second Review April 2007.

b) That, in respect of application ref: 3/12/0253/FP planning permission be **REFUSED** for the following reason:

1. The application site lies within the Metropolitan Green Belt as defined in the East Hertfordshire Local Plan wherein permission will not be given except in very special circumstances for development for purposes other than those required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to a rural area. The considerations put forward in support of this application are insufficient to clearly outweigh the harm caused by inappropriateness and other identified harm, and the proposal would therefore be contrary to policies GBC1, HSG7 and HSG8 of the East Herts Local Plan Second Review April 2007 and guidance in the National Planning Policy Framework.

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### **1.0 Background:**

- 1.1 The two application sites are shown on the attached OS extract. The site area for Plot 1 comprises a pair of semi-detached dwellinghouses facing onto Bucks Alley to the north, and Plot 2 comprises an area of open agricultural land to the immediate south of nos. 1-4 Bucks Alley.
- 1.2 The sites lie within the Metropolitan Green Belt, with four existing houses fronting onto Bucks Alley in a relatively isolated location, with farmland to the south comprising generally open land, although there are a number of poultry buildings and a barn on site.
- 1.3 The current proposals envisage the demolition of the houses at 1 and 2 Penny Royal, which have been affected by subsidence resulting in structural damage. Two replacement dwellings are proposed with one on the current site, to the rear of the footprint of the existing houses (ref: 3/12/0252/FP) and the second house located further to the south, on open agricultural land (ref: 3/12/0253/FP).
- 1.4 The applicant argues that the roots of the mature trees to the east of nos. 1 and 2 are destabilising the properties, resulting in subsidence. The applicant therefore considers it necessary to only construct a single replacement dwelling on the site of nos. 1 & 2, in a location on the site outside the influence of the trees' roots. This would then necessitate the provision of a second replacement dwelling on plot 2.
- 1.5 Nos. 1 and 2 are agricultural workers' dwellings, and the proposed replacement dwellings are also proposed to be bound by agricultural workers' occupancy restrictions.

### **2.0 Site History:**

- 2.1 The relevant planning history for the site is as follows:
  - E/17017-58 – Two semi-detached houses – Approved January 1959.
  - 3/10/2246/FP – Detached agricultural worker's dwelling – Refused February 2011.
  - 3/10/2247/FP – Detached agricultural worker's dwelling – Refused February 2011.
- 2.2 Application ref: 3/10/2246/FP was for a replacement house on plot 1. It was refused permission as officers were not convinced that a replacement dwelling could not be built at the front of the site. Officers considered that the proposed development failed to respect the established pattern of

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development at the site. In addition, it was felt that approving a single dwelling in the position proposed would prevent the site being used for two dwellings, as is currently the case.

- 2.3 In addition, planning permission was refused as insufficient information had been provided to allow the proper assessment of the impact of the proposed development on the bats considered to possibly be present on site.
- 2.4 Application ref: 3/10/2247/FP was for a new dwelling on open land to the west of the existing houses. Permission was refused as it was considered to be inappropriate development in the Green Belt. It was also felt that the proposal would involve the undesirable extension of an existing ribbon of development to the detriment of the rural character and appearance of the area, the openness of the Metropolitan Green Belt and existing landscape views.

### **3.0 Consultation Responses:**

- 3.1 The following responses apply to both applications:
- 3.2 The County Council's Highways section have no objection to the proposed developments, subject to conditions relating to the appropriate surfacing of the sites.
- 3.3 The Landscape section state that there is insufficient information provided to show that the site of the existing two houses cannot be redeveloped to provide two replacement houses.
- 3.4 The following responses have been submitted only in relation to application 3/12/0252/FP:
- 3.5 The Herts Biological Records Centre have stated that the information provided regarding the presence of bats is sufficient to allow the Council to determine the application. If permission is to be granted, the mitigation measures set out in the provided report should be conditioned.
- 3.6 The Environmental Health department have recommended a condition relating to the presence of unsuspected contamination at the site.

### **4.0 Parish Council Representations:**

- 4.1 Bayford Parish Council have not commented on either application.

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### **5.0 Other Representations:**

- 5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.
- 5.2 Two letters of representation have been received from the occupiers of nos. 3 and 4 Penny Royal objecting on grounds of loss of privacy, and the building being sited out of line with the established building line (3/12/0252/FP) and on the grounds that the site is agricultural land (3/12/0253/FP).

### **6.0 Policy:**

- 6.1 The relevant 'saved' Local Plan policies in this application include the following:

ENV1	Design and Environmental Quality
GBC1	Appropriate Development in the Green Belt
GBC6	Occupancy Conditions
SD2	Settlement Hierarchy
HSG7	Replacement Dwellings and Infill Housing Development
HSG8	Replacement Dwellings in the Green Belt and Rural Area Beyond the Green Belt

- 6.2 In addition, guidance in the National Planning Policy Framework is a material planning consideration to be taken into account in determining these applications.

### **7.0 Considerations:**

- 7.1 The sites lie within the Green Belt. The main consideration is whether the principle of the development is appropriate in the Green Belt and if not, whether there are other considerations which would clearly outweigh the harm caused by inappropriateness and any other harm such as to constitute 'very special circumstances' to justify inappropriate development.

#### **Principle of development**

- 7.2 Policy GBC1 of the Local Plan states that replacement dwellings can be appropriate development in the Green Belt, provided that they would comply with criteria set out in policy HSG8.
- 7.3 Policies HSG7 and HSG8 of the Local Plan set out a number of criteria for replacement dwellings, including those in the Green Belt. Permission may be granted where the original building is of poor appearance and/or

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construction incapable of retention and where:

- The replacement dwelling is well sited in relation to the surrounding buildings, will not appear obtrusive or over intensive, or result in the loss of important landscape features.
- The design complements the character of the local built environment and has regard to local distinctiveness.
- They complement the local natural surroundings.
- The dwelling to be replaced has a lawful residential use.
- The volume of each new dwelling is not materially larger than the dwelling to be replaced, plus any unexpended Permitted Development rights.
- The new dwelling is no more visually intrusive than the dwelling to be replaced.

7.4 The National Planning Policy Framework (NPPF) also recognises that “the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces” (paragraph 89) is not inappropriate development in the Green Belt. However, it also notes that in “considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”.

7.5 The applications propose two replacement dwellings, one on the site of nos. 1 and 2 Penny Royal (Plot 1), and one on agricultural land to the south (Plot 2). It is acknowledged that the houses have a lawful residential use. Officers have previously accepted that the houses have experienced substantial damage, and that there is a genuine need for replacement. In principle, therefore, replacement can be supported, but consideration must be given to the proposed siting, form and design of any such replacement and its impact on the openness, character and appearance of the Green Belt.

### Plot 1

7.6 The replacement house on the site of nos. 1 and 2 is proposed to be sited much deeper into the site than the existing dwellings. The applicant has chosen this location so that the house would be as far outside of the root spread of the trees as possible. However, it results in one replacement dwelling being displaced from the existing site, and that increases the spread of development in the area.

7.7 Furthermore, the proposed new siting of the replacement dwelling would be

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out of keeping with the pattern of development fronting Bucks Alley and would thereby be detrimental to the character and appearance of the area.  
Plot 2

- 7.8 The southern application site is presently open field, although somewhat screened by the existing properties to the north. The proposed house would face west on the site, with access from the farm track onto Bucks Alley. The site would be ringed with a native hedgerow on three sides, with a taller cypress hedge along the north boundary to provide some screening to the existing houses at 3 and 4.
- 7.9 The dwelling is on a greenfield site and constitutes inappropriate development in the Green Belt. By definition therefore it results in harm by its inappropriateness.
- 7.10 Plot 2 is considered to be an improvement on the location of the previous application (ref: 3/10/2247/FP) as it would be less prominent in the streetscene. The harm to the openness of the Green Belt from the development would be reduced relative to that proposal. The development also proposes compensatory tree planting to the edge of the wooded area to the east and this has been designed to enhance the existing woods. Nevertheless, although the proposed landscaping would potentially provide some mitigation of the harm caused by the proposed development, it is considered that the house would be visually intrusive and harmful to the openness of the Green Belt.
- 7.11 In the absence of further justification for the revised siting of the property, officers consider that it cannot be agreed that very special circumstances exist that would allow the development to be approved in spite of the in-principle objections. The development would result in the displacement of one house from the existing site, causing further development on adjacent Green Belt land and therefore a greater impact on openness and the spread of development. It would therefore be contrary to the requirements of Local Plan policy GBC1 and guidance in the NPPF.
- 7.12 The proposals are therefore considered to be inappropriate development in the Green Belt which would be harmful in terms of inappropriateness. Other harm has also been identified as follows.

Other harm

- 7.13 In terms of visual impact, the proposals would result in a change in the character of the site. The reduction from two houses to a single dwelling on Plot 1 could improve the openness of Plot 1, but this would be at the expense of new development on previously undeveloped land on Plot 2.

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The existing houses sit close to the north boundary of the site, as do the adjacent cottages at 3 & 4. The replacement house on Plot 1 would sit much deeper within the site, with a much greater area of landscaped garden before it and would appear visually unrelated to its neighbour.

- 7.14 The existing houses each have a floor area of around 110m<sup>2</sup>, while the proposed houses would be around 116m<sup>2</sup>. The proposed house on plot 1 would not therefore be materially larger in terms of footprint, although the appearance of the property would be very different to the existing, and the ridgeline would be approximately 400mm higher than the existing property, although this would be offset by the house being deeper within the site.
- 7.15 The design of the houses would also have a more urban character, in contrast to the simple, rural cottage appearance of the existing houses and neighbouring properties. They would include ground floor bay windows and porches, with a half-hipped roof uncharacteristic of the immediate area and not typical of rural properties in general.
- 7.16 With regard to the appearance of the properties, the house on Plot 2 would be screened from general public view. Its appearance is therefore not of particular concern, and as a new dwelling on a previously undeveloped site there is greater latitude for variation in design. However, the design of the proposed house on Plot 1 is of significantly greater concern. The development would have a negative impact on the established character of the site, resulting in a somewhat less rural appearance contrary to the requirements of Local Plan policies HSG7 and ENV1.

#### Other material considerations

- 7.17 The applicant has provided information to show that the mature trees to the east of the two existing houses are causing destabilisation to the properties on site. Although this appears to be the case, and justifies the principle of constructing a replacement dwelling, the justification is not considered to extend to the point of allowing a replacement house to be constructed on a separate site, or the design approach taken. The submitted report cites the presence of shrinking clay which would be too unstable when subjected to the expanding roots of trees to allow construction. It does, however, suggest that there are alternative solutions to the problem of subsidence, other than the re-siting put forward by the applicant. These relate to the installation of root barriers; root pruning and/or crown management. It is not clear, therefore, that the re-siting of any replacement dwelling(s) is the only practicable means of resolving the problems caused by the trees adjacent to the site.
- 7.18 The Council's Landscape officer has considered the evidence. He feels that

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two replacement dwellings could be constructed on the existing site in such a way that subsidence would not pose a risk to the properties. The foundations detailed, he believes, would be sufficient to offset the clay shrinkage that has caused the destabilisation of the existing properties.

- 7.19 The applicant contends that the revised siting would provide additional benefits. Firstly, they would provide on-site parking for the occupants of the dwelling. However Bucks Alley does not appear to be a heavily-trafficked road, and the four cottages are isolated to an extent that on-street parking is not a significant problem. In addition to parking in front of the houses, there is a bay that has been formed apparently by parking vehicles on the opposite side of the road. It is not considered that this matter therefore provides justification for the revised siting.
- 7.20 The applicant also contends that the separation of the dwellings would provide insulation for the occupants from contagious diseases encountered while dealing with the farm's poultry stock. It is not considered that this can be given any significant weight. It is assumed that the occupants of the houses would be aware of the bio-security issues noted by the applicant, and with an appropriate level of care would be able to avoid contamination as must currently be the case.
- 7.21 The occupiers of nos. 3 and 4 Penny Royal have expressed additional concern about the impact on their privacy from the proposed development on Plot 1. However, the house would be sited around 10m from the shared boundary with no. 3, with the front wall level with the rear wall of nos. 3 and 4. No first-floor windows would look directly onto that boundary. It is not considered that this arrangement would have a material impact on the privacy of the neighbouring occupiers.

## **8.0 Conclusion:**

- 8.1 The proposed replacement house on the site of 1 and 2 Penny Royal would be sited in such a way that it would prevent the redevelopment of the site for two houses. It would also be out of keeping with the established pattern of development in the area.
- 8.2 The proposed new dwelling on the agricultural land to the south of 1-4 Penny Royal would be inappropriate development resulting in harm to the openness of the Green Belt. It has not been shown that there are 'very special circumstances' that clearly outweigh the harm by inappropriateness and other harm caused by the proposal.
- 8.3 It is therefore recommended that planning permission be refused for both applications.