



Appeal Decision

Site visits made on 5 September 2012

by R Barrett BSc(Hons) MSc, Dip Hist Cons, Dip UD, MRTPI, IHBC

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

Decision date: 3 October 2012

Appeal Ref: APP/J1915/A/12/2172830

2 Owles Lane, Buntingford, Hertfordshire, SG9 9JA

- 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 Paul Walker against the decision of East Herts Council.
 - The application ref 3/11/1292/FP, dated 11 July 2011, was refused by notice dated 21 September 2012.
 - The proposal is for the resubmission of application with regard to the demolition of the existing motor vehicle workshop and construction of a new enlarged workshop facility within the boundary of the existing Lawful Development Certificate.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (The Framework) was published during the course of this appeal. The parties were given the opportunity to comment on its publication. Comments received have been taken into account in my decision.
3. The East Herts Local Plan Second Review (LP) was adopted in 2007. The policy context is therefore relatively up to date. In addition, I find that none of the development plan policies relevant to this appeal, appear to be at odds with The Framework. Therefore, whilst The Framework policies have been considered, they do not, in light of the facts of this case, alter my overall conclusion.

Main issues

4. The main issues are the effect of the proposal on the character and appearance of the locality, on the living conditions of the occupiers of 2 Owles Lane, with regard to outlook and neighbouring occupiers with regard to noise and disturbance.

Reasons

5. The appeal site includes land to the side and rear of 2 Owles Lane, a two storey family house. It is accessed from the street via a steep driveway, which leads to a large outbuilding, with a relatively restricted hardsurfaced area to the front and side. It abuts the rear gardens of properties on London Road and the rear

elevation of 2 Owles Lane. It is currently owned and used as a car repair business by the owners and occupiers of 2 Owles Lane.

6. The character and appearance of the locality is predominantly two storey family houses with long rear gardens. The surrounding area generally has a quiet and rural feel.
7. The proposal would result in a larger outbuilding on this restricted site. It would be higher than the existing outbuilding, notwithstanding the proposed reduction in ground level. The increase in size would introduce additional commercial floorspace into a generally residential area. In this respect it would be out of character in this locality.
8. Moreover, the proposed increase in floorspace could lead to more commercial activity on the appeal site, which could, in turn, create additional noise and disturbance. Whilst I acknowledge that this is not the appellant's intention, it may be the intention of future users or owners of the appeal site. This would result in significant harm to the generally quiet and rural character and appearance of the locality.
9. I conclude that the proposal would significantly harm the character and appearance of the locality and would fail to further the aims of LP Policy ENV1, which, amongst other things, promotes high quality development that integrates with its surroundings.
10. In coming to this conclusion, I have taken into account the lawful use of the appeal site. However, this proposal would increase the potential for commercial uses, which would result in significant harm to the character and appearance of the locality. In addition, I have taken into account the limited views of the outbuilding from the street, but this does not overcome the adverse effect of the potential additional use on the area's generally quiet and rural character and appearance.

Living Conditions

11. The proposal would be closer to the rear elevation of 2 Owles Lane than the existing outbuilding, by 1 metre, notwithstanding the measurements set out in the officer's report. In addition, it would be higher than the existing outbuilding. It would sit in front of the patio doors, which serve a kitchen/dining room at ground floor level where there is no development at present. In addition, it would sit nearer to a ground floor window than the existing structure. As the proposal would be close to the rear elevation, it would be dominant in views from the ground floor window and the patio doors to the kitchen/dining room and would materially affect the outlook.
12. I conclude that the proposal would unacceptably reduce the living conditions of the occupiers of 2 Owles Lane with regard to outlook and would fail to further the aims of LP Policy ENV1, which amongst other things seeks to safeguard the living conditions of residents.
13. I have taken into account that the existing user of the appeal site lives and owns 2 Owles Lane and that the existing use and outbuilding, which sits in front of the ground floor window, has existed for over ten years. However, my concern is for the additional harm identified to the living conditions of both the existing and future occupiers of this property, by reason of loss of outlook.

14. I have also had regard to the fact that the proposal may, in some respects, improve the outlook for the occupiers of 2 Owles Lane, as it would enable cars to be worked on inside the building rather than outside on the hardsurfaced area. It may also result in a less cluttered appearance. However, whilst this may be a benefit of the scheme it does not outweigh the effect of a higher and closer built structure on the outlook from the ground floor rear window and patio doors of 2 Owles Lane.
15. The proposal would result in additional commercial floorspace in a predominantly residential area. As this would result in the potential for activity to be intensified, it could result in additional noise and disturbance to neighbouring residents. My concern is particularly for the occupiers of 2 Owles Lane, which is very near to the appeal site, 4 Owles Lane, which is next door, and 4a, 6 and 8 London Road, the gardens of which back onto the appeal site, notwithstanding the length of those rear gardens.
16. In this respect the proposal has the potential to unacceptably reduce the living conditions of neighbouring occupiers at 4a, 6 and 8 London Road and 2 and 4 Owles Lane, with regard to noise and disturbance and would be contrary to LP Policies ENV1 and ENV24. These together aim to protect the living conditions of residents and minimise the impact of noise generating development on the environment.
17. I have had regard to the appellant's intention not to increase the activity at the appeal site, or the workforce, and that a car lift exists at the appeal site at present. However, my concern is for the way in which the appeal site could be used in the future, as a result of this proposal. The limited size of the existing outbuilding restricts the activity at present. If it were increased in size, it would provide the potential to increase the activity.

Other Matter

18. I note that the appellant suggests that the future separate sale of the appeal site would be unlikely and I have had regard to the letter from Country Properties dated 14 March 2012 advising that a separate sale would be likely to depress the sale price of the house at 2 Owles Lane. However, whilst unlikely, a separate sale would be possible and I have made my decision on this basis. However, the significant harm identified to the character and appearance of the locality and the reduction in the living conditions of neighbours would result regardless of the ownership of the appeal site.

Conclusion

19. For these reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

R Barrett

INSPECTOR



Appeal Decision

Site visits made on 5 September 2012

by R Barrett BSc(Hons) MSc, Dip Hist Cons, Dip UD, MRTPI, IHBC

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

Decision date: 4 October 2012

Appeal Ref: APP/J1915/A/12/2172496

The Bothy, Albury Hall Park, Albury, Ware SG11 2JA

- 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 Adam Brockley against the decision of East Herts Council.
 - The application Ref 3/11/1357/FP, dated 31 July 2011, was refused by notice dated 7 November 2011.
 - The development proposed is for a replacement dwelling and change of use of part of the paddock to residential on which area a pool building would be constructed.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (The Framework) was published during the course of this appeal. The parties were given the opportunity to comment on its publication. Comments received have been taken into account in my decision.
3. The East Herts Local Plan Second Review (LP) was adopted in 2007 and policies were saved in 2010. The policy context is therefore relatively up to date. In addition, I find that none of the development plan policies relevant to this appeal, appear to be at odds with The Framework. Therefore, whilst The Framework policies have been considered, they do not, in light of the facts of this case, alter my overall conclusion.
4. A proposed tree schedule Plan 248/08 was submitted with the appeal. From what I have read and from the plans listed on the decision notice, this plan was not part of the planning application on which the Council made its decision. This was agreed by the parties on my site visit and is the basis on which I am determining this appeal.

Main issue

5. The main issue is the effect of the proposal on the character and appearance of the locality.

Reasons

Character and Appearance

6. The appeal site includes a detached bungalow with a generally low level simple form, despite the addition of a number of dormer windows and a large glazed swimming pool and conservatory. A double garage sits adjacent to the bungalow within a restricted frontage set behind a planted boundary. The existing bungalow and garage sit within a limited and irregular shaped curtilage, which backs onto a paddock also owned by the appellant. On my site visit, there was no physical division between the appeal site curtilage and the paddock.
7. The character and appearance of the locality is generally undulating open countryside, with a pattern of large fields. Houses and farm complexes are generally set within sizable grounds, dispersed within the countryside, often screened by trees and planting with a low impact on the locality's open, green and rural character. Trees and planting add to this rural and green character and appearance.
8. The Council has previously approved the proposed house in a slightly different position. (Planning Permission Ref 3/10/0959/FP). In addition, it has not raised concern regarding the reorientation of the proposed dwelling and I am advised that this was approved under Planning Permission Ref 3/11/2086/FP. The Council's concern is for the addition of a covered swimming pool on a small part of the paddock. I will go on to consider this aspect of the appeal proposal.
9. The appeal site is situated within the countryside, which is defined as the Rural Area Beyond the Green Belt (RABG). It therefore falls for consideration under saved LP Policies GBC3 and HSG8, which together restrict the size and visual intrusiveness of replacement dwellings, to that of the existing dwelling in RABG. The appeal proposal, which includes a dwelling plus a swimming pool, would be materially larger than the existing dwelling and the previous planning permission (Ref 3/10/0959/FP), even when making an allowance for unexpended permitted development rights. Due to its size, it would dominate the limited proposed residential curtilage, which would fail to accord with the size of dwellings in relation to their plots in the near vicinity.
10. In addition, as the proposal would be bigger than the existing bungalow and the previous permission (Ref 3/10/0959/FP) and it would be sited on part of the paddock, which is open and green at present, it would encroach into the landscape. It would be more visible and therefore more prominent than the existing dwelling. Despite the undulating topography and the existing planting within and around the appeal site, I consider that the proposal would be visible in short range views from the area around the private driveway to Hole Farmhouse and from various vantage points on the part of Albury Hall Park which leads from the appeal site to The Causeway. In addition, it would be apparent in longer range views from The Causeway, notwithstanding the effect of distance. Due to these matters, it would cause significant harm to the character and appearance of the locality.
11. In addition the proposed swimming pool, would be linked to the main house by a glazed walkway and would sit at some distance from it. Due to this, and the small lean to, it would have a more complex layout and form than that of the main dwelling and would appear awkward in relation to it. In addition, its

- layout would result in the impression of a separate large building which, notwithstanding its height, would dominate the main dwelling. These matters, together with its proposed siting on the paddock, which is open and undeveloped green land at present, adds to my concern regarding the impact of the proposal on the open and rural character and appearance of the locality.
12. The proposal would sit in close proximity to the woodland trees along the eastern boundary of the appeal site, which are protected by a Tree Preservation Order TP0223, identified as Area A6. As the canopy edge of the trees is not identified on the submitted plans, the effect of the proposal on the health of these trees cannot be assessed. If the proposal were to result in the deterioration of protected trees, and in the absence of acceptable replacement planting, this would negatively impact on the green and rural character and appearance of the locality. In addition, it would diminish the existing tree screen, which would result in the proposal being more visible in views from the east.
 13. Due to the above matters, I conclude that the proposal would cause significant harm to the character and appearance of the locality and would fail to accord with saved LP Policies GBC3 and HSG8, which together protect the character of the RABG.
 14. In making this assessment, I have considered the proposal as identified within the appeal application, which includes a replacement dwelling and swimming pool, having regard to the extant planning permission for the proposed dwelling (Planning Permission Ref 3/10/0959/FP). I therefore do not consider saved LP Policy ENV5, which relates to extensions to existing dwellings to be relevant in this case.
 15. I have also had regard to the views expressed by my colleague, Inspector Hall, in allowing a previous appeal (APP/J1915/A/05/1195111), which have been brought to my attention. This appeal related to extensions and alterations to the existing bungalow. Comments made related to a much smaller dwelling, therefore, and the circumstances of that appeal do not replicate those of this appeal. In any event, I have determined this appeal on its own merits.
 16. Note has been taken of some local support for the appeal proposal, that the swimming pool is the smallest viable area and that the appellant suggests that it would be smaller than the existing swimming pool, and others which have received planning permission in the locality, although no further details are provided on this matter. In addition, the appellant's intention to ensure that the proposal would respond more positively to the appeal site, the topography and minimise earth movement is noted.
 17. I also have taken into consideration the limited design credentials of the existing dwelling and the high quality contemporary design of the proposed house, together with the appellant's intention to replicate the layout, form and materials used in buildings, which surround farmsteads evident in the locality. However, all these matters are not sufficient to overcome the significant harm to the character and appearance of the locality that I have identified.

Other Matters

18. Due to the separation distance, the proposal would preserve the setting of the neighbouring listed buildings, Hole Farmhouse, the adjacent barn and White Cottage.

19. At the heart of the Framework is a presumption in favour of sustainable development. This is reflected in the core principles set out in its Paragraph 17 and throughout its various Sections. In this regard, I acknowledge the sustainability credentials of the appeal proposal. However, whilst this would be a benefit of the scheme, it is not sufficient, in this case, to outweigh the significant harm that I have identified to the character and appearance of the locality.

Conclusion

20. For these reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

R Barrett

INSPECTOR



Appeal Decision

Site visit made on 14 August 2012

by **Katie Peerless Dip Arch RIBA**

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

Decision date: 27 September 2012

Appeal Ref: APP/J1915/A/12/2173934

Grove Field, Hedge End Farm, Much Hadham, SG10 6EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr J Wilkinson against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/1368/OP, dated 27 July 2011, was refused by notice dated 14 October 2011.
 - The development proposed is the erection of a new 2 bed dwelling.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application is in outline with all matters reserved for future approval. However, the application plans, which I have taken to be for illustrative purposes only, show the proposed dwelling to be a chalet bungalow sited about mid-way along the western boundary of the site, with access apparently taken from the south.

Main Issue

3. I consider that the main issue in this case is the effect of the proposed development on the character and appearance of the surrounding rural area.

Reasons

4. The appeal site is within the Rural Area defined within the East Herts Local Plan Second Review 2007 (LP) where planning permission for new dwellings would not normally be granted. It is a field with an area of just under 1Ha within the same ownership as the adjacent dwelling at Hedge End Farm, which lies to the north. The site is screened by mature hedging from Nether Street, a rural lane, unmade in parts, which gives access from the hamlet of Perry Green to Hedge End Farm and other sporadic development in the vicinity.
5. To outweigh the presumption against development on this rural site, the appellant suggests that the proposal would provide a cost effective solution to providing a home for family members who are on the Council's housing waiting list, would not be prominent and would result in the removal of a mobile home and a redundant pig shed sited on the land within his ownership. He also contends that permitted development rights would allow a considerable amount of development on the site in any event.

6. The appellant suggests that the proposal could be viewed as small scale affordable housing and cites policy OSV3 (f) of the LP, which allows for rural exception affordable housing in Category 3 villages. However, any proposal permitted under this policy is required not to represent an extension of ribbon development or an addition to an isolated group of houses. Hedge End is the last property on the eastern side of Nether Street at South End, outside the confines of a defined village settlement and is in an isolated group such as referred to in the policy. A new dwelling on the appeal site would extend this group and consequently fail to meet the criteria of policy OSV3.
7. In respect of what could be built on the site as permitted development, I am not persuaded that the appeal site falls within the residential curtilage of Hedge End Farm for the purposes of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GPDO). The fact that land is within in the same ownership as a dwellinghouse does not automatically mean that it forms part of its curtilage; if this was the case then all of an agricultural holding, if it had a farmhouse on it, could be claimed to be residential curtilage and this is not how the GPDO is interpreted or applied.
8. The appeal site is separated from the garden area of the dwelling by hedging and fencing and does not appear to be in use for any domestic purposes. I conclude therefore that it is unlikely that it benefits from any residential permitted development rights. Even if this is not the case, then permitted development would be restricted to buildings incidental to the enjoyment of the main dwellinghouse and this does not include primary living accommodation, such as is proposed here.
9. Similarly, for the reasons outlined above, I do not accept the appellant's argument that the building would represent an annex to the main house rather than a separate new dwelling. The house would be some distance from Hedge End Farm, (over 75m if the submitted plans are correct), separated from it by boundary treatments and have a separate access. Even if tied to the ownership of the main house by condition, it would still have the appearance of a detached, independent dwelling and would, no doubt, function as such.
10. The pig shed that would be removed if the proposed development went ahead is a typical agricultural building and, as such, has a very limited impact on the landscape. A new dwelling would, however, change the character of the surroundings from agricultural to domestic residential and have a detrimental impact on the rural nature of the countryside. I am told that a mobile home, which the appellant has also offered to remove, is used as an annex in connection with the residential use of Hedge End Farm and does not, therefore, require planning permission. It appears to be accepted as part of the residential curtilage of the main dwelling and is not, therefore, sited on agricultural land. Consequently, its removal would not contribute significantly to the character of the wider countryside.
11. The new dwelling would be screened from Nether Street and the removal of the family members for whom the house is intended from the housing waiting list would weigh in favour of the scheme. However, in the face of the strong policy presumption that limits new residential development in isolated rural locations, I conclude that this benefit does not outweigh the harm caused by the loss of this area of agricultural countryside.

Conclusions

12. The proposed development conflicts with the aims and objectives of LP policies GB2 and GB3 which seek to maintain the Rural Area and restrict development within it. These policies are in accordance with paragraph 55 of the recently published National Planning Policy Framework which advises that isolated new houses in the countryside should be avoided, except in special circumstances. This proposal does not meet any of the criteria listed in that paragraph as special circumstances; neither, as explained in preceding paragraphs, does it meet any of the exceptions to the LP policies. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Katie Peerless

Inspector



Appeal Decision

Site visits made on 5 September 2012

by R Barrett BSc(Hons) MSc, Dip Hist Cons, Dip UD, MRTPI, IHBC

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

Decision date: 5 October 2012

Appeal Ref: APP/J1915/A/12/2173671

Primrose Cottage, Slough Road, Allens Green, Sawbridgeworth, CM21 0LR

- 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 Darren Spinks against the decision of East Herts Council.
 - The application ref 3/11/2061/FP, dated 25 November 2011, was refused by notice dated 20 January 2012.
 - The development proposed is the re-division of the existing dwelling to form one two-bedroom dwelling and one three-bedroom with study dwelling, with two storey side and part single, part two storey rear extensions, together with front porches and associated parking provision. ** This application for submission is for a variation on the previous approval already granted under planning Ref: 3/11/1369/FP**.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (The Framework) was published shortly before this appeal was submitted. The parties were given further opportunity to comment on its publication. Comments received have been taken into account in my decision.
3. The East Herts Local Plan Second Review (LP) was adopted in 2007. The policy context is therefore relatively up to date. In addition, I find that none of the development plan policies or guidance relevant to this appeal, appear to be at odds with The Framework. Therefore, whilst The Framework policies have been considered, they do not, in light of the facts of this case, alter my overall conclusion.

Main issue

4. The main issue is the effect of the proposed extensions on the character and appearance of the locality.

Reasons

5. The appeal site includes a two storey property with an attached garage and a long rear garden located within Allens Green. It forms the end of a small terrace of properties that faces onto Slough Road, near to its junction with Allens Green. The appeal site, having previously formed two residential units, is currently in use as one dwelling. A public footpath runs to one side of the appeal site over open green space and affords views of the side and back of the

appeal property and the rear of the terrace. Beyond the appeal site there are open fields.

6. The character and appearance of the terrace is comprised of two storey modest dwellings with a simple and generally regular form, despite the addition of a number of single and two storey rear extensions to some properties, and front porches. It has dark stained weather boarded elevations, slate roofs with upright chimneys and small casement windows, some of which have been replaced. Notwithstanding a variety of additions and alterations, the terrace displays cohesiveness.
7. The proposed rear extensions, together with previously approved front, side and rear extensions would result in large additions, which would disproportionately increase the size of the host dwelling. The proposal would cover three elevations of the existing dwelling and the overall effect would be dominant and out of scale in relation to it. In addition, it would fail to relate to the size and scale of other properties within the terrace. Due to its size in relation to the existing dwelling and the terrace, its proximity to the open countryside and the public footpath, which would afford views of the proposal, it would intrude into the openness and rural qualities of the locality.
8. The proposed two storey rear extension would have an eaves and ridge height, which would be similar to the existing house. The height of the proposed extension, combined with its complex gabled form, rearward projection and overall mass, would fail to relate to the simple form and modest character and appearance of the existing house and terrace. The proposed extensions would wrap around the elevations of the host dwelling to the extent that it would be difficult to appreciate the size, form and design of the host dwelling and the part of the terrace in which it would be situated. The fact that the rear of the terrace is open to public view increases my concern in this respect.
9. For these reasons, I consider that the proposal would cause significant harm to the character and appearance of the locality and would fail to further the aims of LP Policies ENV5 and GBC3, which together promote high standards of design in new development and protect the rural character of the locality, which is designated as Rural Area Beyond the Green Belt.
10. In coming to this conclusion, I have taken into account the extant planning permission Ref: 3/11/1369/FP, which includes the conversion of the host dwelling to two residential units and front, side and rear extensions. However, I have come to the view that the appeal proposal, in addition to the approved extensions, would cause significant harm to the character and appearance of the existing dwelling, the terrace and the locality generally.
11. I also note that the proposed single storey rear addition would be similar in depth to a conservatory on the neighbouring property, 3 Black Cottages. I have limited information on this extension. However, it is a glazed lightweight structure. In addition, it allows the observer to appreciate the history and origin of the main part of the dwelling and due to these matters does not replicate the circumstances of the appeal proposal.
12. I acknowledge that the proposal would not adversely affect the living conditions of neighbours and that the rear extensions would only be visible at an oblique angle from the street when progressing from Hoppetts, the neighbouring

property. However, these considerations do not outweigh the significant harm that I have identified to the character and appearance of the locality.

13. In addition, I note that the use of permitted development rights, if applicable to the development approved under Ref: 3/11/1369/FP, would be unlikely to result in extensions of similar size and height. I, therefore, accord limited weight to the fall back position suggested by the appellant.

Other Matters

14. The proposal, due to the separation distance, would preserve the setting of St Anne's Church and Hoppetts, both listed buildings in the locality.
15. At the heart of the Framework is a presumption in favour of sustainable development. This is reflected in the core principles set out in its Paragraph 17 and throughout its various Sections. I recognise that the scheme proposed would provide an additional unit of family accommodation, which may enhance the vitality of the rural community of Allens Green and have had regard to Paragraph 55 of the Framework in this respect. However, whilst these matters may be benefits of the scheme, they are not sufficient, in this case, to outweigh the significant harm that I have identified to the character and appearance of the locality.

Conclusion

16. For these reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

R Barrett

INSPECTOR



Appeal Decision

Site visit made on 21 September 2012

by Christopher Bowden MA (Oxon)

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

Decision date: 10 October 2012

Appeal Ref: APP/J1915/A/12/2175232

Land to the rear of 43-51 Warren Terrace, Hertford SG14 3JE

- 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 Graham Barnes (Hirstdale Ltd) against the decision of East Herts Council.
 - The application Ref. 3/12/0041/FP, dated 10 January 2012, was refused by notice dated 7 March 2012.
 - The development proposed is *erection of two detached three-bedroom dwellings with parking.*
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Decision

1. The appeal is dismissed.

Procedural matters

2. The site address is taken from the decision notice (and replicated in the appeal form). It appears to be more accurate than the one given in the application form.
3. The decision was made before publication of the National Planning Policy Framework ("the Framework"). I have taken into account the comment made about the Framework in the context of this appeal. The decision notice cites Policies ENV1, ENV2, ENV11, HSG7 and BH6 of the East Herts Local Plan Second Review 2001 to 2011, adopted in 2007 (LP). These appear to be consistent with the thrust of the Framework. I give them full weight accordingly, as advised by paragraph 214 of that document.
4. The appellant submitted with the appeal a number of drawings that were not before the Council when its decision was made. I have taken them into account on an illustrative basis.

Main issues

5. These are the effect of the proposed development on:
 - the character and appearance of the site and of the Hertford Conservation Area; and
 - the living conditions of the occupiers of neighbouring properties, with particular reference to outlook and privacy.

Reasons

6. The site lies between the back gardens of houses fronting Warren Terrace and Boundary Drive. It comprises land that was once part of the back gardens of

the Warren Terrace houses (from which it was apparently separated 10 years or so ago) but with access from a part of Boundary Drive that curves round from the rest of that road. Planning permission¹ was granted in July 2010 for *erection of a detached 1.5 storey three bedroom dwelling* on the site.

Character and appearance

7. The site lies in the Hertford Conservation Area (CA). This part of it is predominantly residential. Warren Terrace comprises a variety of dwellings of different ages, types and design, mostly two-storey. The houses in Boundary Drive are more recent, typically two-storey semi-detached but with detached dwellings facing the site, for example.
8. The principle of residential development of the site was established by the 2010 permission, which remains extant. The siting and alignment of the two houses now proposed would not be typical of the existing pattern of development but neither is that of the extant scheme. The approval was for a single, smaller house centrally located within the site. It appears that, at the time permission was given, the house would have been largely concealed by vegetation that would have limited its visual impact. Since then, the site has been opened up by removal of trees (with the Council's consent) so that the presence of the approved house would be more apparent in the street scene in any case. Its form as a chalet bungalow would also now appear as less in keeping with surrounding development.
9. The two detached houses currently proposed would clearly be more prominent but their design and scale would relate satisfactorily to existing dwellings in the area and suitable materials could be secured by condition. Given the gaps between the two houses and to the boundaries, and with neighbouring gardens bordering the site, the development would not appear unduly cramped, as viewed from the street. Individual plot sizes would be smaller than many properties nearby but this would not be especially harmful to visual amenity (the small extra piece of land acquired since the previous approval would make little difference to the position either way). While a significant proportion of the front of the site would be occupied by hard standing, the development would be softened by existing vegetation (including off-site trees) and by new landscaping. Overall, therefore, I do not consider that the development would appear unduly intensive, incongruous or obtrusive in the street scene.
10. Two such trees are the sycamore and Norway maple growing just outside the site but with Root Protection Areas (RPAs) extending well within it. The trees are particularly prominent, widely visible within the surrounding area, and make a significant contribution to the character and appearance of this part of the CA. While I note that the Council does not consider that the trees meet the criteria for a Tree Preservation Order (TPO), this does not alter my view of their amenity value. I also note that, although the sycamore has been assessed as Category C, the adjacent Norway maple has been classified as Category B and that the arboricultural report submitted by the appellant says that the trees have grown together and should be treated as one unit.
11. There is concern that these trees would be damaged during construction and that, in any event, their proximity (and that of another sycamore² at the rear of the site) to House A would lead to post-development pressure for thinning or

¹ Ref. 3/10/0817/FP

² Classified as Category B; a similar height to the Norway maple and also having a landscape value

lopping. As regards potential damage, and taking account of information in the arboricultural report, I consider that the position could be safeguarded by suitable conditions relating to construction methods and protective measures.

12. On the basis of indicative shading diagrams submitted by the appellant, it appears that the trees would result in some shading of rooms in House A at certain times. This may be unwelcome to potential occupiers, BRE guidance³ notwithstanding. Moreover, given the life expectancy of these trees, it may reasonably be assumed that they will continue to grow. Potential occupiers may also consider leaf fall close to the house to be a nuisance and I note that the rear sycamore would take up a significant proportion of garden space that is not especially generous in any event. Overall, therefore, it seems likely that there would be pressure for surgery that could harm the amenity value of the trees.
13. I recognise that the CA location means that prior notice⁴ of tree work would have to be given to the local planning authority and that this would give the authority an opportunity to consider whether a TPO should be made. While that option would remain on the table, the Council's current view that the TPO criteria would not be met does not suggest that it could be relied upon to secure the continuing contribution of the trees to this part of the CA. I therefore consider that the proximity of House A to the trees would be damaging.
14. On this basis, therefore, I conclude that the proposed development would have a materially harmful effect on the character and appearance of the site and of the Hertford Conservation Area. As such, it would conflict with the objectives of LP Policies ENV1, ENV2, ENV11, HSG7 and BH6.

Living conditions

15. House B would be located close to the rear boundaries of Nos 7 and 8 Boundary Drive. Although these properties have high rear fences (and a higher hedge in the case of No 8), the fall of the land means that House B would be set well above those properties. Their gardens slope down markedly, with use of terracing, to patios and the dwellings themselves. Thus the flank of House B looming above the intervening fences etc would appear highly intrusive, dominating views from rear gardens and windows. This would not be mitigated adequately by other vegetation in the gardens and would be unacceptable. The proposed new fence on the site close to the boundary with No 7 would not alter the position materially. However, concerns about overlooking from the first-floor flank window of House B could be addressed by a suitable condition on obscure glazing.
16. As regards Warren Terrace properties (including No 37, whose long garden continues behind the site), the potential for overlooking from rear windows in the development and/or the flank window of House A could again be dealt with by condition. House A would be clearly visible from Nos 47 and 49 in particular but, taking account of the distances and land levels involved, it would not have an unduly harmful effect on outlook. The development would be adjacent to the parts of No 37's garden furthest from the house. However, taking account of their relative positions and the existing and newly planted coniferous boundary hedging (and recognising that some of the existing does not look to

³ Building Research Establishment *Site Layout Planning for Sunlight and Daylight*

⁴ Under section 211 of the Town and Country Planning Act 1990

be in the best of health), I do not consider that the new houses would have an unreasonably dominating or overbearing effect.

17. Nevertheless, I conclude that the proposed development would have a materially harmful effect on the living conditions of the occupiers of Nos 7 and 8 Boundary Drive, with particular reference to outlook. As such, it would conflict with the objectives of LP Policies ENV1 and HSG7.

Other matters

18. The appellant says that the proposal would provide additional housing in a sustainable location and create employment. However, there is already consent for one dwelling on the site and I do not consider that the appeal scheme would have extra benefits in these respects sufficient to outweigh the harm identified above.

19. The appellant mentioned a recent development in nearby New Road. I saw it when I visited the area, together with the adjacent houses in Warren Park Road. While I have taken it into account, the scheme does not appear to be directly comparable in its position to the proposal before me. In any event, each application and appeal has to be determined on its own merits.

Conclusion

20. For the reasons given above and having regard to all other matters raised, including third party representations, I conclude that the appeal should be dismissed.

Christopher Bowden

INSPECTOR



Appeal Decision

Site visit made on 19 September 2012

by R High BA MA MRTPI

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

Decision date: 25 September 2012

Appeal Ref: APP/J1915/D/12/2179043

Heath Cottage, 106 Bramfield Road, Bulls Cross, Knebworth, Hertfordshire, SG3 6SA

- 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 T Somers against the decision of East Hertfordshire District Council.
 - The application Ref 3/12/0204/FP was refused by notice dated 20 April 2012.
 - The development proposed is a detached car port and log store.
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Procedural Matter

1. The decision notice issued by the local planning authority does not give the reasons for refusal and I have assumed that the reasons are those recommended in the officer's report.

Decision

2. The appeal is allowed and planning permission is granted for a detached car port and log store at Heath Cottage, 106 Bramfield Road, Bulls Cross, Knebworth, Hertfordshire, SG3 6SA, in accordance with the terms of the application, Ref 3/12/0204/FP, dated 1 February 2012, and the plans submitted with it, 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: Location Plan and No 11/1240/01 Rev A.

Main Issue

3. The main issues are: the effect of the proposed development on: (i) the openness of the Green Belt and (ii) the character and appearance of the area.

Reasons

4. Heath Cottage is a detached dwelling within a row of large detached houses with woodland on the other side of the road. It lies in the Metropolitan Green Belt and the fundamental aim of Green Belt Policy is to keep land permanently open. The National Planning Policy Framework (NPPF) indicates that the construction of new buildings in the Green Belt is considered inappropriate except in defined circumstances which include the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building. While the NPPF does not refer directly to detached garages or other outbuildings, case law has established that these

- are capable of being included within the definition of the extension of existing dwellings. The local planning authority has not suggested that the proposed development would result in a disproportionate addition that would be inappropriate in the Green Belt and I find no reason to depart from that view.
5. The proposed car port would lie a little forward of the dwelling, very close to the side boundary with 104 Bramfield Road but it would stand well back from the road. Its open side would face across the front of the house and it would back on to a garage in a similar position at No.104. There is a line of conifer trees along the existing boundary and a small number of these would be removed so that the car port would be as close to the boundary as possible.
 6. As a new building, the development would inevitably have an impact on the openness of the Green Belt. However, a garage or car port is a normal adjunct to a detached dwelling of this size and the scale of the building would not be sufficient to cause harm that would justify dismissing the appeal solely on the grounds of the effect on openness. I conclude on the first issue that the development would not conflict with the aims of Green Belt policy in the NPPF or with Saved Policies GBC1 or ENV5 of the East Herts Local Plan Second Review 2007 (LP).
 7. There are several other garages in positions forward of dwellings in the vicinity. I accept that the circumstances which led to these vary and that the examples shown at 86 Bramfield Road and 2 and 4 Coltsfoot Lane are not directly comparable. However, although the garage at No.104 was erected before the Local Plan was adopted, Green Belt Policy was essentially the same at that time. It is therefore an important material consideration.
 8. The plot of Heath Cottage is quite wide but the dwelling occupies almost the full width of it. There is therefore no potential for locating a garage to the side or rear of the house. When viewed from the entrance to the site the car port would slightly overlap with the front of the house, partly obscuring a ground floor and first floor window. However, this would be similar to the relationship between the garage and the house at No.104, though the garage there is at the other side of the plot from the access.
 9. The local planning authority has suggested that the proposal would amount to poor design. The proportions and materials of the building would be sympathetic to the dwelling and, because of the width of the plot, it would not result in a cramped or intrusive appearance. While the proposed log store would make the building a little wider than a standard double garage this would not be apparent when viewed from the front. I therefore conclude that the proposed car port with log store would not be harmful to the character and appearance of the area and would be consistent with LP Saved Policy ENV1 and the requirements of the NPPF relating to design.
 10. In addition to the standard condition relating to the timescale for implementation a condition requiring conformity with the submitted plans is necessary for the avoidance of doubt and in the interests of proper planning.
 11. I have considered all the other matters that have been raised and conclude that the appeal should be allowed.

Richard High

INSPECTOR