



Appeal Decision

Inquiry opened on 13 November 2012

Site visit made on 16 November 2012

by Paul Jackson B Arch (Hons) RIBA

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

Decision date: 26 November 2012

Appeal Ref: APP/J1915/A/12/2175064

Land to the east of Walkern Road and North of High Elms Lane, Benington, Hertfordshire.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by R H Bott and Son against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/1190/FP, dated 1 July 2011, was refused by notice dated 26 October 2011.
 - The development proposed is erection of a single wind turbine with an 86.5m tip height, substation, access tracks and ancillary infrastructure.
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Preliminary matters

1. The address of the appeal site on the application form is given as Benington Lordship, Stevenage, Hertfordshire SG2 7BS. The site address given above is that used for a previous appeal decision in connection with a three turbine scheme in the same location ref APP/J1915/A/09/2104406 (apart from the omission of a precise grid reference). It is a more accurate description of the location.
2. The Inquiry closed on 16 November 2012 following an accompanied site visit in the morning. On 12 November and during the Inquiry, I carried out unaccompanied site visits to other locations including public rights of way and viewpoints referred to in the representations.
3. The application was accompanied by an Environmental Statement (ES) prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, as amended. I have taken it into account together with the views of others on its contents, expressed in writing and at the Inquiry.
4. Prior to the Inquiry, 'Rule 6' status was granted to the Stop Benington Wind Farm Action Group (SBWFAG).

Decision

5. The appeal is dismissed.

Main Issues

6. From the single reason for refusal, the main issues are the visual impact of the proposed development and its effect on the landscape character of the

surrounding area; and whether the environmental and economic benefits of the scheme would be sufficient to outweigh any harm that might be caused.

7. Local residents are concerned about a number of other issues including the effects on living conditions of nearby residential occupiers and on heritage assets in the vicinity. I consider these matters in the body of the decision.

Reasons

Background

8. The proposed turbine would be erected on farmland about 1.7 kilometres south west of Benington village and 3 km east of Stevenage. The current proposal is intended to address the reasons given by an Inspector in March 2010 for dismissing a previous scheme for 3 turbines of up to 119 metres (m) tip height in the same general location.

Policy background

9. For the purposes of Section 38(6) of the 2004 Planning and Compulsory Purchase Act, the development plan comprises the East of England Plan-Revision to the Regional Spatial Strategy for the East of England, of May 2008 (EEP) and the East Hertfordshire Local Plan Second Review of April 2007 (LP). It is the Government's clear intention to revoke Regional Strategies outside London as soon as possible subject to the outcome of environmental assessments, and that intention is a material consideration. Nevertheless the aims of the EEP in respect of renewable energy area are reasonably up to date and remain relevant. Policy ENG1 of the EEP identifies the need to meet regional and national targets for reducing climate change emissions and urges local authorities to encourage the supply of energy from renewable sources. Regional targets are given in policy ENG2, the aim being that 10% of energy used (excluding offshore wind) should come from renewable sources by 2010, increasing to 17% by 2020.
10. National guidance has changed since the previous appeal. In March 2012 the National Planning Policy Framework (the Framework) was issued, replacing a large swathe of Planning Policy Statements and Guidance (PPSs and PPGs), though some advice remains relevant. In particular, the Companion Guides attached to PPS22 *Planning for Renewable Energy* and PPS5 *Planning for the Historic Environment* have not been replaced. Any advice in these documents needs to read in the context of up to date policy guidance in the Framework and National Policy Statements (NPSs). The *Overarching National Policy Statement for Energy* (EN-1) and *National Policy Statement for Renewable Energy Infrastructure* (EN-3) were both issued in July 2011. These are primarily intended to inform the work of National Infrastructure Planning on proposals for nationally significant energy infrastructure but the Framework refers to EN-3 and both documents are material considerations to which significant weight needs to be attached when considering any wind energy applications.
11. According to paragraph 214 of the Framework, full weight can be attached to the policies of the LP until March 2013, even if there is a limited degree of conflict with the Framework. There was significant disagreement between the parties at the Inquiry as to the extent to which policies referred to in the reasons for refusal conflicted with the Framework, in particular policy GBC14, which has the general aim that development proposals will be required to

improve and conserve local landscape character. As wind turbines would almost inevitably have a detrimental impact on landscape character and mitigation, in the case of large turbines, would be hard to put in place, it could be argued that the policy is unduly restrictive. However it should be read in concert with policy SD3 (the other policy referred to in the reason for refusal) which encourages renewable energy in principle and supports the development of facilities for harnessing renewable energy sources including wind power, which it advises needs to be carefully located, to avoid problems of visual intrusion and loss of amenity. This language is similar to that used in the RSS the following year. NPS EN-1 advises at paragraph 5.9.8 that projects need to be designed carefully taking account of the potential effects on the landscape. EN-3 expresses similar aims at paragraph 2.7.49.

12. The potential for large wind turbines in East Herts would have been anticipated at the time GBC14 was formulated because PPS22, which had been in existence since 2004, advised that renewable energy developments should be capable of being accommodated throughout England in locations where the technology is viable and environmental, economic and social impacts can be addressed satisfactorily. This is a theme repeated in the NPSs and the Framework. PPS22 also advised that although turbines are likely to have great visual and landscape effects, the impact will vary and may be temporary if conditions are attached requiring future decommissioning. Policy GBC14 allows for unavoidable damage to local landscape character such as could occur as a result of turbine development, by seeking appropriate mitigation measures. Those mitigation measures could include a temporary permission as well as the usual landscaping measures, which may only mitigate partially for the effect of a wind turbine but could still be considered appropriate. In light of this I do not consider that the LP read as a whole, is silent on wind energy development or precludes large wind energy installations as a matter of course.
13. In considering this matter I have had regard to the Cleek Hall appeal (ref APP/N2739/A/12/2172629) but there are significant differences. In that case, the Inspector concluded that policy ENV 6 of the saved Selby District Local Plan of February 2005 militated against any commercial wind farm. That policy sought specifically to control renewable energy, criterion 1 stating that (and here I quote from the decision letter) 'the scheme should not have a significant adverse effect on the immediate and wider landscape'. The Inspector concluded that the policy was out of date because of the sustainable nature of all wind energy development and the presumption in favour set out in the Framework. In that case, the degree of conflict with the Framework was clearly not 'limited' as set out in paragraph 214.

The site and its surroundings

14. The appeal site is an arable field close to High Elms Lane, a narrow rural unclassified road between the B1037 between Watton at Stone and Walkern (the Walkern Road) and Benington village. The turbine would be located approximately 130m from the lane just above the 110m contour line on an outcrop of elevated land that projects from the Benington-Sacombe ridge towards the valley of the Beane river to the south west. The ridge is incised with distinct tributary streams on both sides. The area is mixed in landscape character terms, surrounding land within a radius of 5km comprising 8 different landscape character areas (LCAs) in the Supplementary Planning Document (SPD) to the LP, *Landscape Character Assessment* of September 2007. The

individual LCAs demonstrate a large degree of intervisibility, several being visible at the same time in most views and contributing to a sense of variety, complexity and relatively small scale. The SPD is agreed to form a baseline for assessment of the effects on landscape character, as it was for the previous appeal. For the purposes of assessing the effect of the current proposal, whilst I have taken account of the potential visibility of the turbine from a north westerly direction, I have concentrated on the LCAs most likely to be significantly affected, as did the previous Inspector.

The effect on landscape character

15. Studies have been undertaken to help in locating renewable energy projects in the region and on a county basis. Entec produced the Hertfordshire Renewable Energy Study in July 2005, but this is now of some age in terms of the available technology. It identifies north and east Hertfordshire as most suitable for wind farms and an area slightly further to the north east as being potentially the most attractive part of Hertfordshire for wind farm developers. At that time, the area around Benington was included in a locally designated landscape conservation area, a designation that fell away after new Government guidance on local landscape designations issued in 2004 encouraged local criteria based policies.
16. Arup produced an assessment of the renewable energy resource potential for the whole region, *Placing Renewables in the East of England* in February 2008 (the Arup report). The Arup report is of limited detail and does not help significantly in locating a single turbine of the size proposed. It places Hertfordshire in an area of medium/medium high landscape sensitivity to wind turbines, but the study is large scale and inappropriate for development control purposes. Further advice is provided in the AECOM reports *Hertfordshire Renewable and Low Carbon Energy* published in June 2010 and the *East of England renewable and low carbon energy capacity study* published in April 2011. The first aims to identify the distribution and extent of existing and potential renewable and low carbon energy resources in the County to inform the evidence base for the emerging core strategies. Energy Constraints Areas are identified where other means than wind and district heating should be explored; and Wind Opportunity Areas which meet various criteria. The appeal site lies on the edge of an area of wind opportunity, but is surrounded on 3 sides by areas of energy constraint.
17. The Benington turbine would have a hub height of 60m. Landscape sensitivity in the Arup report is assessed assuming turbines of 100-140m blade tip height (2-3 MW). The turbine would be well below the definition of large scale (80-100m hub height) in the 2nd AECOM report. Its size and visual impact would be significantly less than one of the previously proposed 3 turbines at 119m (to blade tip height). In principle, a turbine of the proposed scale would have the potential to be sited in a greater range of locations than suggested in the regional guidance, which can only assist in broad terms.
18. Nevertheless the turbine would be of significant size relative to the surrounding landscape. The difference in height between the proposed location (about 112m AOD (above ordnance datum) and the Beane valley would be in the region of 40m, about two thirds the height of the hub and less than half the 86.5m height of the blade tip. The potential visibility of the turbine is

confirmed by the ZTV diagrams¹ which indicate that the turbine hub and rotor sweep would be visible from almost the same area within a 5 km radius, as those of the previous 3 higher turbines. This is largely because of the proximity of the adjacent Beane valley and the height of the ridge on which it would lie. However the reduced scale of the turbine would lower its visual impact with distance accordingly and significant impacts would be unlikely beyond a radius of 3 km. I have considered the effect on landscape character primarily within this radius but visited other locations.

19. Thirteen viewpoints are examined in the ES. The Council and SBWFAG put forward additional viewpoints. Comparative viewpoint analyses are provided by the appellants and SBWFAG, based on the agreed methodology described in the *Guidelines for Landscape and Visual Impact Assessment* (GLVIA) with minor variations. The Council provides a separate assessment of its own additional views. All these provide a useful tool in assessing the sensitivity of the landscape character, the scale or magnitude of the visual effect of the turbine and making a judgement on its impact on landscape character. The GLVIA also draws in the significance of effects on the independent but related matter of visual impact, that is the effect on users or receptors in the landscape.
20. Turning to each LCA in turn, the *Benington-Sacombe Ridge* (LCA 71) is the LCA within which the turbine would lie, at its south western edge near the crest of the Beane valley. The Assessment describes the area as one of ancient countryside with small woods, winding green lanes and numerous stream-eroded valleys. One of its listed key characteristics is ribbon development between the settlements of Benington and Whempstead along the narrow undulating plateau on its eastern side, but this is not easily appreciated from the turbine location which is about 1.5 km to the south west. Another key characteristic is small woodlands set amongst large unhedged fields, and this where the turbine would be situated, on high ground. It would be visible above the woodlands from many parts of the LCA including houses in Town Lane, Benington, moderated to an extent by trees and other vegetation.
21. The large fields also extend into the adjoining LCA 39 *Middle Beane Valley* a short distance away to the west and to a degree, into LCA 70 *Woodhall Park and Watton at Stone Slopes* on the opposite side of High Elms Lane towards the south east. In principle, this type of large scale landscape could be considered to be sympathetic to a wind turbine of the proposed scale, but the turbine would almost always be perceived together with landscape of much more intimate character in LCA 71 and neighbouring LCAs. Moreover, the large fields on the top of the plateau around the turbine site are few in number; more and larger fields occupy distinctly sloping land in the Beane Valley and in the tributary vales on either side of the turbine location and this would lead the eye and reinforce and emphasise its height to the observer. There are woods and trees on the slopes as there are on the plateau but these would not significantly mitigate the impact of the turbine's height and movement.
22. There is a sense of remoteness in the northern part of the LCA around where Cotton Lane meets the Benington Road (nearest viewpoint EHC VP C). This is accentuated by the almost complete lack of man made objects such as dwellings, telegraph poles, farm buildings or any other physical infrastructure. Here, the revolving blades and much of the tower of the turbine at about

¹ Doc 9

1.5km would be starkly visible on high ground to the south. Its contrasting form would appear intrusive and would dominate the surroundings, seriously eroding the atmosphere of isolation that currently pertains, despite the proximity of Stevenage, Benington, roads and the Hertford-Stevenage railway. The evolution of agricultural practices over time which includes the removal of hedges and industrial production of rape and wheat does not compromise this aspect of landscape character. The magnitude of change to landscape character would be substantial.

23. The LCA 39 *Middle Beane Valley* comprises a much larger area of land to the north and west of LCA 71. It borders the suburban edge of Stevenage but very little of that settlement is seen or perceived from the Beane valley or even from its higher western facing slopes. Key characteristics include the sharp transition to the ridge to the east and to the urban edge of Stevenage to the west as well as large cultivated fields, few settlements and expansive views, all contributing to a remote character. The Assessment says under the heading visual and sensory perception 'the overwhelming impressions here are of remoteness, tranquillity and continuity, a sense that nothing much has changed over the centuries'. I concur with the previous Inspector that that description may somewhat overrate the absence of change, particularly the influence of modern agricultural production on field pattern and use, but the lack of major traffic routes or significant areas of settlement in the LCA do result in a strong sense of peacefulness and tranquillity. In support of this, the Campaign to Protect Rural England (CPRE) map of tranquillity² indicates an above average level of tranquillity here, particularly in a 1 km square immediately north west of the turbine site.
24. The proposed turbine would be a conspicuous and assertive feature in many views from this LCA, in particular those from roads and footpaths on the western slopes including Aston Bury Lane and the lane called Frogmore Hill. Only a few buildings in Benington on the far skyline interrupt a significantly uncluttered landscape which I consider sensitive to the type of highly visible type of development that the turbine would represent. From most of these locations there would be no intermediate woodland or hedging to mitigate for this. Even from places in the bottom of the valley or on the eastern slope, for instance for about 3km along the Walkern Road past Blue Hill Farm at the southern tip of the LCA and as far as Watton at Stone, most of the turbine would be visible were it not for hedgerows on this route. I consider the magnitude of change would be substantial up to 1.5km.
25. The small LCA 38 *Aston Estate Farmland* lies adjacent to LCA 39 at its southern end. It contains notable buildings at Frogmore Hall and Astonbury House. Views of the turbine from this LCA would be similar to those from LCA 39 but closer, at a distance of around 1-1.5km. It would be dominant in views of the eastern open skyline along much of Frogmore Hill, except when interrupted by trees on the Frogmore Hall estate, an effect that would be reduced in winter. As a conspicuous moving object, it would be noticeably intrusive overlooking the compact landscape of undulating estate farm and parkland. The magnitude of change overall would be substantial. I consider the effect on the garden of Frogmore Hall later in the decision.
26. LCA 40 *Bramfield-Datchworth Sloping Farmland* lies south west of the appeal site in a continuation of the Beane Valley. Key characteristics include extensive

² KH Appendix 3

views up to plateau woodland and out over distant valley landform, isolated farms, open large scale arable farmland and no settlements (although the village of Datchworth is just beyond its western boundary and Datchworth church spire is frequently the only strong vertical built feature seen from many locations around the Beane valley and beyond). It is perceived as somewhat monotonous but tranquil according to the Assessment, although traffic noise can be heard and the railway line passes through its northern edge.

27. Though further away at between 2 and 5km from the turbine, the undulating eastern skyline of the upper Beane valley is a constant feature of views from this LCA especially from the ridge north of Datchworth. Despite being relatively smaller in the overall breadth of the landscape that can be perceived, the turbine would be conspicuous because there is very little else man-made to distract the eye. However, beyond a distance of about 3km, it would be subservient to the broad sweep of the horizon and would be seen mainly in the context of large arable fields; the Beane valley here is also less distinct. It would not conflict with any small scale features perceived from here and would only have a moderate impact.
28. LCA 70 *Woodhall Park and Watton at Stone Slopes* lies immediately south east of the turbine site. It contains a marked estate and parkland character at the southern end at Woodhall Park but this is between 3 and 4 km away from the appeal site and would not be significantly affected due to intervening trees and woodland. So far as relevant to the appeal proposal the remaining upland part of this LCA has the key characteristic of an undulating landform. Again, the whole LCA is described as tranquil in the visual and sensory perception section of the Assessment and this is a consistent feature of the general area. The relative tranquillity of the area around Gregory's Farm on one part of the Chain Walk in this LCA is very noticeable and this seems to be because of the screening effect of the surrounding valley sides. In that kind of environment it would have a very significant adverse impact because of its vertical and industrial appearance, compounded by movement of the blades.
29. There would be significant effects in this LCA particularly in the smaller scale landscape around Gregory's Farm within 500-700m of the turbine, where it would be seen in the context of a smaller scale tributary valley and more intimate and intricate lanes and byways as well as blocks of woodland. Here the magnitude of change on the landscape character and visual impact would be very substantial. There would also be a lesser impact seen from the Whempstead Road, which partly traverses a ridge up to 105m AOD. Although about 3 km away from the turbine site there are long views across arable fields and the turbine would be the only contrasting vertical feature in a broad aspect apart from Datchworth church. Mobile phone masts in the locality are sensitively located or of small scale and are not easily seen.
30. Concluding on the effect on landscape character and visual impact, the area up to 3 km of the turbine is not designated but is characterised by a fairly complex and varied topography with a wide range of visual qualities. To a greater or lesser extent, there are public rights of way, bridleways and byways in all the LCAs that are used frequently by local residents and from further afield; and these provide more intimate views and long views of the countryside which because of its very varied nature, provides a wide range of experiences. That is enhanced by the remarkably open and largely unspoilt nature of most of the farmland which is surprisingly isolated from the nearby large settlement of

Stevenage. I concur with the previous Inspector that its qualities weigh significantly in favour of its conservation.

31. The turbine would become a defining element in the landscape at a distance of up to 1.5 km in LCAs 39, 70 and 71. The effect would not be uniform, but it would be a noticeable feature up to 3km in LCAs 38 and 40. It would appear subservient and of only moderate significance beyond this distance. There is little to indicate that the landscape has significantly changed in the last 30 years as the appellant suggests and the qualities of tranquillity and peacefulness, whilst they may well be compromised compared to the 18th century, are still important and valued characteristics that would be seriously eroded by this proposal. The introduction of a single turbine of the scale proposed introduces a substantial adverse magnitude of change within 1.5 km radius of the turbine. The area adversely affected is less than for the previous proposal for 3 turbines, but is still significant; and each proposal must be assessed on its own individual merits. The development would conflict with the landscape character conservation aims of LP policy GBC14. Policy SD3 is largely narrative and contains no criteria against which to assess the proposal.

Other matters

Green Belt

32. The boundary of the Metropolitan Green Belt lies slightly to the west of the turbine site. The access track and the substation, a very modest structure that would be sited adjacent to existing farm buildings, would be within the Green Belt and by definition, would be inappropriate development within it. The Framework advises that very special circumstances will need to be demonstrated if such projects are to proceed but that they may include the wider environmental benefits associated with energy from renewable sources. Paragraph 81 advises that in defined Green Belts, local planning authorities should plan positively for opportunities to retain and enhance landscapes and visual amenity amongst other things. The turbine would be a prominent feature seen from much of the Green Belt on the east side of Stevenage and as a moving object of industrial appearance, would conflict with this objective. I concur with the Council that if the turbine was found to be acceptable in terms of landscape character and visual impact, the renewable energy benefits would outweigh the limited harm to the openness of the Green Belt that would occur and the harm by reason of inappropriateness.

Living conditions

33. Advice in the PPS22 Companion Guide for wind energy projects affirms the basic principle that 'The planning system exists to regulate the development and use of land in the public interest. The material question is whether the proposal would have a detrimental effect on the locality generally, and on amenities that ought, in the public interest, to be protected'. In terms of visual amenity, this translates into the long established principle that there is 'no right to a view', meaning that it is not possible to protect a property simply on the basis that an attractive or cherished view would be adversely affected by development.
34. The turbine would introduce a dramatic and unavoidable change in outlook for the occupiers of Gregory's Farm from their main kitchen, dining area and the attached long conservatory. The occupiers would also be aware of it from 2

upper bedrooms and it would be a feature of the farmstead and the surrounding landscape that would be hard to avoid. However it is another step to conclude that the change would represent an unacceptable visual impact. The question to be asked is whether the change would be so significant and overwhelming as to lead to the property being considered an unattractive and therefore an unsatisfactory place to live; or in other words, whether the impact would be so substantial that it would harmfully enclose, dominate or overwhelm the residents, so that that the dwelling ceases to provide acceptable living conditions. There is a garden immediately outside the conservatory with hedges that shelter the house and partially obstruct the view. I accept and understand that this may be reduced in height to allow wider appreciation of the view across the valley if the turbine is not constructed and have taken that into account, but the view that would be revealed would be expansive. Within it, the turbine, albeit directly in line with the door to the kitchen and dining area, would only comprise a small portion of the overall prospect. Recognising that the occupants would notice a significant change, the dwelling would not become an unacceptable place in which to live.

35. Residents of dwellings at Blue Hill Farm at the junction of Walkern Road and High Elms Lane draw attention to the visual impact of the turbine and its appearance from their living spaces and gardens. The turbine would be just over 1km from here and most of its height would be seen, despite being on significantly higher ground. It was not possible to visit all the houses that would have a view of the turbine and it would be less or more apparent in the views of residents depending on orientation, tree cover and the plan arrangement of the dwellings. However it seemed to me that whilst its presence would be a feature of the surroundings, it would not occupy more than a small proportion of the surrounding landscape and would not unacceptably compromise their living conditions.

Recreational users and the effect on the enjoyment of the countryside

36. From the point of view of visual amenity, receptors that would be affected would include local residents, recreational users such as walkers and horse riders, and road users. A byway open to all traffic, Cotton Lane, passes close to the turbine location and is a popular route to Benington. The appellants have made arrangements for this to be re-routed for the purpose of maximising the distance between it and horse riders, but the turbine would still be a starkly visible and dominant structure for almost all of the route to Benington Lane. It would substantially alter the experience of this byway for users.
37. The Chain Walk ((a long distance regional walk) passes by the east side of the site for about 2km between Burns Green and Watton-at-Stone, for much of its length passing along a tributary valley in the adjoining LCA 70 *Woodhall Park and Watton at Stone Slopes*. The moving turbine blades would be a focal point for much of this distance, especially passing up the hill in a north eastern direction. This LCA is recorded as being perceived as tranquil and this certainly applies on the section of the Chain Walk passing the turbine location where surrounding landform tends to block out traffic and railway noise. The turbine would have a very substantial adverse effect on the experience of recreational users here.
38. LCA 39 *Middle Beane Valley* has fewer footpaths but a large area of east facing sloping land on which lies the village of Aston. Residents of this settlement

would notice the turbine at around 2.3km away on the skyline and it would represent a conspicuous change in a largely unspoilt outlook. The effect on recreational users would be marked because of its constant active presence.

39. I appreciate that some recreational users might find the turbine a curiosity and an inoffensive object in the countryside with environmental benefits. This reflects differing opinions within the general population. Certainly some recreational users will be sympathetic to wind turbines and the contribution they potentially make to climate change. This cannot however be more than a material consideration in assessing the proposal against planning policy objectives which seek to protect and enhance valued landscapes (paragraph 109 of the Framework) and improve and conserve local landscape character (policy GBC14). I conclude that the adverse impact on the recreational enjoyment of the countryside is not determinative in itself but adds weight to the harm identified to visual and landscape character.

Heritage matters

40. I concur with the ES and the Council that the turbine would have no unacceptable effects on any conservation area. Its potential impacts relate mainly to Gregory's Farm, a Grade II listed farmhouse; and Frogmore Hall, a Grade II listed building, converted into a house and apartments, in an unregistered locally listed parkland setting. I do not find that there would be any significant impact on heritage assets at Benington Lordship.
41. Gregory's Farm has been extended and altered internally. The farm buildings have also been altered and augmented with the needs of the enterprise over many years and the whole farmstead has an attractive appearance at the centre of the surrounding pasture which is now used in connection with breeding horses for dressage. The farm is in a relatively isolated location on the north west slopes of a tributary vale and is the only building easily seen from the turbine site which is about 750m away.
42. The heritage impact of the turbine relates to the setting of the historic farmhouse. On approaching the farm the surrounding fields add considerable significance to the heritage interest of the farmhouse because of the historical use of the land. Its special interest is enhanced also by the general sense of isolation of the farmstead and the extensive views available to the north west and south west. It is not near any other buildings associated with farming enterprises except a group of barns to the south east. The turbine would be a high, contrasting and intrusive element seen above the roofs and chimneys of the building on approaching it from Mill Lane along what is also an arm of the Chain Walk. There is no question that the experience of the setting of the building would be substantially altered. The gradual appearance of moving turbine blades above the farmhouse on the main approach would be anachronous and out of scale. It would be close enough to appear to be within land that could belong to the property (though this is not the case) and because of the intervening clear ground across the tributary valley, the whole of the turbine tower would be visible on moving beyond or to the side of the farmhouse. There are no significant trees that would reduce the impact.
43. The proposed turbine in this location would diminish the heritage significance of the farmhouse through scale, prominence, proximity and placement. Only the prospect of a temporary permission could mitigate for the harm that would occur; however, a 25 year permission, as is usual, would be a very long time in

the experience of the present occupiers and other people that appreciate the house from the Chain Walk. The impact would be less severe than the previously proposed 3 turbines which the previous Inspector considered would dwarf the half timbered house, but because of the siting in line with the access, would still be serious, made worse by the lack of any other significant vertical man-made features except for a small scale power supply line feeding the farm. Movement of the blades would also contrast with what is, in essence, a scene that has not significantly changed for several centuries. Having said that, the turbine would not be in a designed view and would be on a separate outcrop of land which also contains a lightly trafficked road. The harm caused would not be 'substantial harm' in the sense of that phrase used in the Framework and would not be determinative on its own, but needs to be put into the balance.

44. With regard to Frogmore Hall, approaching it from the A602, the turbine blades would be seen over the Hall across the open grassland of the park in which the house appears as a destination. However this is not a designed view, the access is not the original one and the turbine would be about 1.5-2km away on the crest of a hill. It would move relative to the Hall on progressing along the drive and would not be conspicuous in the setting of the house on the final approach. Although there would a degree of harm to the setting, it would not seriously diminish the heritage significance of the Hall or the surrounding garden.

The environmental and economic benefits, overall balance and conclusion

45. The Government is committed through the June 2010 National Renewable Energy Action Plan for the UK under the European Union (EU) Directive to secure a binding 15% of all energy supplies including electricity, transport and heat from renewable sources by 2020. The Government's UK Renewable Energy Strategy of 2009 (RES) sets out how the country will meet the legal obligation and expects a significant proportion of the commitment to increase the generation of renewable energy and reduce the UK's emissions of carbon dioxide to be achieved by means of onshore and offshore wind power. It advises that an overall 30% of electricity generation will need to come from renewable sources.
46. The Framework indicates that applicants for energy development should not have to demonstrate the overall need for renewable or low carbon energy and that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. Nevertheless some airing of the subject is necessary in view of the evidence presented by SBWFAG.
47. The UK Renewable Energy Roadmap of July 2011 (the Roadmap) records progress across all forms of renewable energy, and plans for the future. It needs to be read alongside DECC Energy Trends, a quarterly bulletin recording national energy statistics including the contribution made by renewable generation. The bulletin records the ongoing increase in the contribution made by wind. Progress towards renewable energy targets in the east of England is relatively good but takes into account a very significant contribution from Tilbury biomass plant which is due to close in 2015. On this basis, SBWFAG accepted that there would still be a shortfall against the 2020 target even if all projects which are currently consented are delivered together with offshore installations off East Anglia, which are yet to enter the approval process. Taking this situation together with the uncertainties identified in the Roadmap

there must be a need for generation of the kind proposed here; more especially because it would contribute usefully to Hertfordshire's own renewable energy needs. The 2011 AECOM report identifies a potential wind resource capacity in Hertfordshire of which only a small proportion has been completed or planned to come on stream. All of this means that the contribution to renewable energy supply, albeit modest at about 1840MWh of electricity a year, deserves very substantial weight. The scheme would supply the equivalent of around 345 local households.

48. Any wind turbine development must have significant visual effects on the surrounding landscape and may affect other interests. These need to be balanced against the demonstrated need for renewable energy. The Framework advises that applications should be approved³ if the impacts are (or can be made) acceptable. Whilst the adverse visual impact and effects on landscape character would be experienced in a reduced area compared with the previous proposal for 3 No. 2 MW turbines, they would remain substantial within 1.5 km of the turbine and would harm the character of the landscape within a radius of 3km; and cannot be made acceptable. The harm to the historic setting of Gregory's farm also weighs against the proposal. The potential benefit of the supply of electricity for 345 homes and the reduction in carbon dioxide emissions is an important consideration in its own right but is also significantly reduced compared to the previous proposal. In the overall balance, the benefit is significantly and demonstrably outweighed by the disadvantages identified.
49. I have taken account of all the other matters raised including the fact that permission is sought for a period of 25 years after which the turbine would be removed, but that is a very long time during which significant harm to the landscape and heritage interests would pertain. The appeal must be dismissed.

Paul Jackson

INSPECTOR

³ Unless material considerations indicate otherwise

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Saira Kabir Sheikh	Of Counsel, instructed by the Solicitor to East Herts District Council
She called	
Tom Ayres MA BA (Hons) MRTPI	Senior Planning Officer, East Herts District Council
Ben Wright BA (Hons) Dip LA CMLI	Aspect Landscape Planning

FOR THE APPELLANT:

Paul Maile BA	Eversheds LLP
He called	
Kay Hawkins BSc (Hons) BLD CMLI	E4environment Ltd
Peter Newland BSc (CEng) BA (Oxon) MICE FRGS	Albro Planning & Environmental

FOR SBWFAG:

Tina Douglass	Instructed by Marcus Taverner QC
She called	
Jonathan Billingsley MA (Oxon) BPhil CMLI	The Landscape Partnership
Jacqueline Veater BSc (Hons) BTP MA MRTPI	Consultant on planning
Michael Barnard BA (Hons)	Consultant on energy matters
Keith Luetchford	Local resident
Kenneth Grundy	Representing Benington Parish Council
Kenneth Pomfrett	Local resident

INTERESTED PERSONS:

Oliver Heald	Member of Parliament
Cllr Tony Jackson	Ward Cllr Datchworth & Aston, also representing Cllr Nigel Poulton
Cllr Jeanette Taylor	Chairman, EHDC
Mark Wesley	Ramblers Association
Jan Frost	Local resident
Jenny Cobb	Local resident
Peter Brown	Local resident
Ian Vosper	Local resident
David Steggles	Local resident

DOCUMENTS submitted during the Inquiry

1 Letters and enclosures from J & M Woods and C & P Harrison, local residents.

- 2 Letter from Cllr Ken Crofton, local resident.
- 3 Letter from Ms J Heaps, local resident.
- 4 Copy of Secretary of State decisions refs APP/D0515/A/10/2123739 & APP/D0515/A/10/2121194, submitted by the appellants.
- 5 Press release from Centrica dated 24 October 2012 relating to dedicated biomass power stations at Roosecote and Glanford Brigg.
- 6 Energy Trends June 2012 from DECC, submitted by the appellant.
- 7 Extracts from historic maps of Hertfordshire dated 1766 and 1822, submitted by SBWFAG.
- 8 Statements from Cllr Jeanette Taylor.
- 9 Comparative ZTVs prepared for the appellant for the 3 turbine and single turbine schemes.
- 10 Written response to Inspector's queries on rotational speed and turbine transformer location, submitted by the appellants.
- 11 Extracts from 'Noise and Health' submitted by Cllr Jackson.
- 12 Signed Statement of Common Ground with comments from SBWFAG.
- 13 Extract from Hansard dated 8 March 2012, submitted by SBWFAG.
- 14 Letter from Ian Vosper, local resident.
- 15 Letter to Cllr Jeanette Taylor from Richard Collier, local resident.
- 16 Drawings refs EE 712/A and ESM.0000.A3.0055.DWG/A of GRP enclosures proposed for the substation replacing 'Typical Substation' shown on Fig 6.7 of ES Volume 3.



Appeal Decision

Site visit made on 13 November 2012

by Clive Tokley MRTPI

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

Decision date: 3 December 2012

Appeal Ref: APP/J1915/A/12/2174148

6 Woodpecker Close, Bishops Stortford, CM23 4QA.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Lisa Turpcu against the decision of East Herts Council.
- The application Ref 3/11/1226/FP, dated 10 July 2011, was refused by notice dated 14 December 2011.
- The development proposed is a separate two storey dwelling to the side of 6 Woodpecker Close creating a semi-detached two bedroom house.

Decision

1. The appeal is allowed and planning permission is granted for a two storey dwelling to the side of 6 Woodpecker Close creating a semi-detached two bedroom house at 6 Woodpecker Close, Bishops Stortford, CM23 4QA. The permission is in accordance with the terms of the application, Ref 3/11/1226/FP, dated 10 July 2011 and is 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 materials to be used in the construction of the external surfaces of the building hereby permitted shall match those of the existing dwelling.
 - 3) No development shall take place until a planting scheme showing details of new trees and shrubs, a programme for their planting and any existing trees and shrubs to be retained, has been submitted to and approved in writing by the local planning authority. The planting scheme shall be carried out as approved. If within a period of 5 years from the date of planting any tree or plant is removed, uprooted, destroyed or dies, another of the same species and size shall be planted at the same place, unless the local planning authority gives its written consent to any variation.
 - 4) The development hereby permitted shall be carried out in accordance with the following drawings: project No 067, drawings numbered 01, 02, 08B, 09, 010, 11,

Preliminary matter

2. The appellant indicates that her intention was to construct an annex for an elderly relative and I see that on the originally submitted application the proposal was described as a two storey extension. However following discussions with Council Officers the application was amended to its current form. In the grounds of appeal the appellant requests that I determine the application on the basis of her original intention; however my determination of the appeal must be on the basis of the proposal before me as considered by the Council and I therefore cannot accede to her wishes.

Main Issues

3. The main issues are; a) the effect of the proposal on the character and appearance of the area and b) the quality of the living conditions of the occupiers of the proposed dwelling as regards privacy and amenity space.

Reasons

Character and appearance

4. Woodpecker Close lies within a modern housing development containing a mix of dwelling types. The Close comprises detached dwellings with narrow spaces between them but there are a number of semi-detached pairs in nearby Snowdrop Close.
5. The front wall of the proposed dwelling would be set back from that of No 6 and both its ridge and eaves would be lower than the existing house. The proposal has been designed to reflect the materials and detailing of No 6 and would have the appearance of a subordinate extension to the dwelling. The proposal would not be prominent when seen along the cul-de-sac and the gap between No 5 and No 6 at first floor level at the end of the Close would be largely retained thereby preserving views through to the rear of the houses beyond. The presence of a second "front door" would indicate that the proposal was a separate dwelling but I consider that the building would not appear cramped on its site.
6. The proposal would not conflict with Policies HSG7 and ENV1 of the East Herts Local Plan Second Review 2007 which seek to ensure that all development proposals are well designed and that new dwellings complement the character of the area and are well sited in relation to their surroundings. On this issue, and taking account of the concerns raised by the Town Council, I have concluded that the proposal would not detract from the character and appearance of the area.

Living conditions

7. The Council considers that the amount of amenity space provided for the proposed dwelling and retained by the existing dwelling would be sufficient; however its concern lies with the extent to which the side and rear garden areas of the proposed dwelling would be overlooked from neighbouring houses in Snowdrop Close.
8. A close boarded boundary fence would screen the garden and downstairs windows of the proposal from the ground floor windows and gardens of the

Snowdrop Close properties; however the officer report draws attention to upper floor windows in those dwellings that face the appeal site. Vegetation along the side boundary, including two small trees, provides some screening and the proposal indicates a planting screen alongside the fence. The application form indicates that no trees would need to be removed or pruned but no details of the treatment of this boundary have been provided.

9. I consider that the extent to which the proposal would be overlooked from nearby houses is not materially different from the degree of overlooking elsewhere in the area. Taking account the full extent of the garden and the screening afforded by the side and rear fences, which could be supplemented by planting, I consider that it would be possible to find areas with a reasonable degree of privacy for the occupiers of the proposed house. The patio doors in the side wall of the dwelling would be screened by fencing and vegetation; however the living room also has a bay window at the front and if the occupants were concerned about overlooking from Snowdrop Close they could take measures to reduce it whilst retaining an outlook at the front of the house.
10. On this issue I have concluded that the proposal would result in acceptable living conditions for the occupiers of the dwelling as regards privacy and amenity space and that the proposal would not conflict with LP Policy ENV1.

Other matters

11. I have noted the concerns expressed by the owners of neighbouring property; however I consider that as a result of its set back from the boundary and distance from the rear of the Snowdrop Close houses the proposal would not be unduly overbearing and would not result in an unacceptable loss of light. The Council raises no objection to the provision of a single car parking space and I have seen no evidence to indicate that this would be insufficient for a dwelling of the size proposed in this location.

Conditions

12. I have imposed the standard conditions controlling the commencement of development and identifying the drawings. In the interests of the character and appearance of the area I have imposed a condition requiring that, in accordance with the application form, the external materials must match the existing house. I have also imposed a condition requiring details of the planting screen to be submitted to and approved by the Council, this to include the extent to which existing trees and shrubs are to be retained.

Conclusion

13. Taking account of all matters I have concluded that the proposal would not detract from the character and appearance of the area and that it would provide adequate amenity space and privacy for its occupiers. The appeal is therefore allowed.

Clive Tokley

INSPECTOR



Appeal Decision

Site visit made on 13 November 2012

by **Clive Tokley MRTPI**

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

Decision date: 6 December 2012

Appeal Ref: **APP/J1915/A/12/2175530**

2 Maple Avenue, Bishops Stortford, CM23 2RR.

- 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 J Sandford against the decision of East Herts Council.
 - The application Ref 3/11/1520/FP, dated 26 August 2011, was refused by notice dated 7 December 2011.
 - The development proposed is a new dwelling on land adjacent to 2 Maple Avenue.
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Decision

1. The appeal is allowed and planning permission is granted for a new dwelling on land adjacent to 2 Maple Avenue, Bishops Stortford, CM23 2RR. The permission is in accordance with the terms of the application, Ref 3/11/1520/FP, dated 26 August 2011 and is subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.
 - 3) No development shall take place until full details of hard landscape works have been submitted to and approved in writing by the local planning authority. The details shall include proposed finished levels; means of enclosure and hard surfacing materials and those works shall be carried out as approved before the first occupation of the dwelling or in accordance with a programme agreed with the local planning authority.
 - 4) No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include all existing trees, shrubs and hedgerows on the land to be retained and details of new trees and shrubs to be planted and a programme for their planting. The development shall be carried out in accordance with the approved scheme and planting programme. Any newly planted trees, shrubs or hedgerow which within a period of 5 years from the completion of the development die, are removed or become seriously
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damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

- 5) No development shall take place until details of the design of building foundations and the the layout of all service trenches have been submitted to and approved in writing by the local planing authority. Those details shall include any measures required to mitigate the effect of excavations on nearby trees and hedgerows both within the appeal site and on adjoining land. The development shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of development tree protection measures, to include a programme for their implementation and removal, shall be submitted to and approved in writing by the local planning authority. Unless otherwise agreed in writing by the Local Planning Authority those measures shall be carried out and retained in accordance with the approved programme.
- 7) The windows in the north-east and south-west facing elevations of the dwelling shall be fitted with obscured glass manufactured to the equivalent of at least level 3 of the "Pilkington" scale of obscuration. No part of those windows below a point 1.7m above the floor level of the room served by them shall be openable. The windows shall remain so glazed and un-openable.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows or doors of any kind (other than those expressly authorised by this permission) shall be constructed in the north-east and south-west facing flank wall or roof slope of the dwelling or the south-west facing flank wall or roof slope of the garage.
- 9) The development hereby permitted shall be carried out in accordance with the details of the dwelling indicated on Plot 1 of the following drawings: 58110.01, 58110.02, 58110.03 and 58110.04.

Introduction

2. The appeal site forms part of the garden of 2 Maple Avenue and the planning application for this development was submitted alongside an application for a replacement dwelling on the site of the existing house. That application was also refused permission by the Council and is the subject of a parallel appeal and separate decision (ref APP/J1915/A/12/2175532). My consideration of this appeal takes account of the context of the proposal in relation both to the existing house at No 2 Maple Avenue and the proposed replacement.

Main Issues

3. The main issues are a) the effect of the proposal on the character and appearance of the area and b) its effect on the living conditions of the occupiers of 4 Maple Avenue as regards overlooking.

Reasons

Character and appearance

4. For much of its length Maple Avenue is bounded by hedgerows and trees in the front gardens of mainly large detached dwellings. The partly screened dwellings are set at varying distances from the road and each other and there is no prevalent design theme. The north east boundary of the garden of No 2 coincides with the boundary of the Bishops Stortford Conservation Area (CA) which includes an extensive area, mainly to the east of the appeal property, comprising the town centre and surrounding residential areas. Whilst the site does not lie within the CA there are views of it from the CA.
5. The proposed dwelling would be built on land at a lower level than the existing dwelling and the dwelling proposed to replace it. The main axis of the dwelling would be perpendicular to the road with its gable fronting Maple Avenue. This arrangement would be comparable with No 12 where the prominently sited principal range of the building is at right angles to the road. The proposed house would have a narrower front elevation and lower eaves and ridge than either the existing dwelling or its proposed replacement. Nevertheless it would be a substantial dwelling and I consider that whilst the proposal would appear to be smaller than the immediately adjacent dwellings its design and proportions would be in keeping with the mixed residential character of its surroundings. The space between the proposal and the existing house, or its proposed replacement, would be less than elsewhere in the Avenue, but a much wider space would remain between the proposal and No 4 and overall I consider that the spacious character of the area would not be compromised.
6. Policies HSG7 and ENV1 of the East Herts Local Plan Second Review of April 2007 (LP) seek to ensure that housing development is of a high standard of design that is compatible with the character of its surroundings. Whilst the LP pre-dates the National Planning Policy Framework by about 5 years the aims of those policies are consistent with the core planning principles of the Framework which indicate that planning should always seek to ensure high quality design. I therefore give them full weight.
7. I consider that the proposal would have no material effect on the nearby CA and that it would not conflict with LP Policies HSG7 and ENV1. On this issue I conclude that the proposal would not detract from the character and appearance of the area.

Living Conditions

8. The adjacent dwelling to the south, No 4 Maple Avenue is set back from the road and the majority of its garden is at the front of the house. This garden is partly screened from the road by trees and a hedge but glimpses into the garden from the driveway and above part of the hedge reveal that it is mostly laid to lawn edged by planted beds. The boundary between the appeal site and No 4 is marked by a laurel hedge and this is supplemented by a number of trees and shrubs within the appeal site. A detached garage extends from the rear of the house towards the rear of the plot.
9. The flank wall of No 4 has no main windows and the garage would screen the rear garden from view from the proposed dwelling. The boundary vegetation

would reduce the extent to which the front garden of No 4 would be overlooked from the upper floor windows of the proposal. However I consider that the largely private front garden of No 4 would be unacceptably overlooked from those windows and that this would adversely affect the occupiers' enjoyment of that space.

10. The rooms lit by the south-west facing upper floor windows also have openings in the front and rear walls and the appellant has indicated that the windows could be omitted. I consider that this is not necessary; however a planning condition requiring that the windows should be obscure glazed with the lower casements being un-openable would prevent unacceptable overlooking.
11. Subject to the imposition of conditions I consider that the proposed dwelling would not unacceptably detract from the living conditions of the occupiers of No 4 Maple Avenue and would not conflict with LP Policy ENV1.

Other matters

12. Residents have expressed concern about the adequacy of car parking and access arrangements; however the off-street car parking proposed in the form of the garage and parking area would satisfy the local parking standards and the highways authority raises no objection to the proposal. I have noted comments about drainage and a nearby private drinking water supply but I have received no substantive evidence to indicate that either of these matters would justify the refusal of permission.

Conditions

13. In order to safeguard the character and appearance of the area I have imposed conditions requiring the submission of details of hard and soft landscaping, tree and hedgerow protection measures and the approval of the surface materials of the buildings.
14. To prevent over looking of adjacent dwellings I have imposed a condition requiring that the windows in the north-east and south-west facing walls of the house must be glazed in obscured glass and non-openable below 1.7m. In formulating this condition I have been guided by the requirements of the *Town and Country Planning (General Permitted Development) Order 1995(as amended)* and the advice in the accompanying *2010 Technical guidance*. A condition also prevents the insertion of additional windows in those walls and prevents windows from being installed in the south-west wall and roof slope of the garage. I also impose the standard conditions controlling the commencement of development and identifying the approved drawings.

Conclusion

15. Taking account of all matters I have concluded that the proposed dwelling would not detract from the character and appearance of the area or the living conditions of the occupiers of No 4 Maple Avenue and that the appeal should succeed.

Clive Tokley

INSPECTOR



Appeal Decision

Site visit made on 13 November 2012

by **Clive Tokley MRTPI**

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

Decision date: 6 December 2012

Appeal Ref: APP/J1915/A/12/2175532

2 Maple Avenue, Bishops Stortford, CM23 2RR.

- 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 J Sandford against the decision of East Herts Council.
 - The application Ref 3/11/1521/FP, dated 26 August 2011, was refused by notice dated 7 December 2011.
 - The development proposed is a replacement six bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a replacement six bedroom dwelling at 2 Maple Avenue, Bishops Stortford, CM23 2RR. The permission is in accordance with the terms of the application, Ref 3/11/1521/FP, dated 26 August 2011 and is subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.
 - 3) No development shall take place until full details of hard landscape works have been submitted to and approved in writing by the local planning authority. The details shall include proposed finished levels; means of enclosure and hard surfacing materials and those works shall be carried out as approved before the first occupation of the dwelling or in accordance with a programme agreed with the local planning authority.
 - 4) No development shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include all existing trees, shrubs and hedgerows on the land to be retained and details of new trees and shrubs to be planted and a programme for their planting. The development shall be carried out in accordance with the approved scheme and planting programme. Any newly planted trees, shrubs or hedgerow which within a period of 5 years from the

completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

- 5) No development shall take place until details of the design of building foundations and the the layout of all service trenches have been submitted to and approved in writing by the local planing authority. Those details shall include any measures required to mitigate the effect of excavations on nearby trees and hedgerows both within the appeal site and on adjoining land. The development shall be carried out in accordance with the approved details.
- 6) Prior to the commencement of development tree protection measures, to include a programme for their implementation and removal, shall be submitted to and approved in writing by the local planning authority. Unless otherwise agreed in writing by the Local Planning Authority those measures shall be carried out and retained in accordance with the approved programme.
- 7) The upper floor windows in the north-east flank wall of the dwelling shall be fitted with obscured glass manufactured to the equivalent of at least level 3 of the "Pilkington" scale of obscuration. No part of those windows below a point 1.7m above the floor level of the room served by them shall be openable. The windows shall remain so glazed and un-openable.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows or doors of any kind (other than those expressly authorised by this permission) shall be constructed in the north-east or south-west facing flank walls or roof slopes of the dwelling or the north-east facing flank wall or roof slope of the garage.
- 9) The development hereby permitted shall be carried out in accordance with the details of the dwelling indicated on Plot 2 of the following drawings: 58110.01, 58110.02, 58110.03 and 58110.04.

Introduction

2. The appeal site forms part of the garden of 2 Maple Avenue and the original planning application for this development was submitted alongside an application for the development of the remainder of the plot. That application was also refused permission by the Council and is the subject of a parallel appeal ref APP/J1915/A/12/ 2175530.
3. Following the refusal of permission for this appeal proposal the appellant submitted an application for an identical replacement dwelling but within a site comprising the entirety of the garden of 2 Maple Avenue (ref 3/12/0152/FP). Permission was granted for that proposal on 18 April 2012.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. As a result of the April 2012 permission the Council has accepted the siting, design and appearance of the proposed dwelling. The principal matter for consideration in this appeal is therefore whether that dwelling would be appropriate on the smaller appeal site.
6. For much of its length Maple Avenue is bounded by hedgerows and trees in the front gardens of mainly large detached dwellings. The partly screened dwellings are set at varying distances from the road and each other and there is no prevalent design theme. The north east boundary of the appeal site coincides with the boundary of the Bishops Stortford Conservation Area (CA) which includes an extensive area, mainly to the east of the appeal property, comprising the town centre and surrounding residential areas. Whilst the site does not lie within the CA there are views into it from the CA.
7. The appeal site is elevated from the road and when seen from Maple Avenue and along Maple Close the trees and hedgerow along the front of the site screen much of the house and the garden from view. The height of the roof of the proposed dwelling would be less than the existing house but its width and overall bulk would be similar. The proposal indicates that the front boundary screening would be retained and enhanced.
8. Alongside and to the rear of the house the existing garden is divided by a reduction in ground level and a hedge. These separate the area around the house from a flat grassed area to the south of about the size and shape of a tennis court. The line of that division marks the boundary of the appeal site and the proposed dwelling would have a similar enclosed rear garden area to that of the existing house. The sloping open area at the front of the house would remain to provide access for vehicles from the road.
9. Whilst the garden area associated with the proposed dwelling would be about two thirds that of the approved replacement I consider that the dwelling would retain a spacious setting and that the proposal would not conflict with the established character and appearance of the area. I consider that the reduced plot as compared with the approved replacement would not be readily perceived from the CA and that the proposal would at least preserve its character and appearance.
10. Policies HSG7 and ENV1 of the East Herts Local Plan Second Review of April 2007 (LP) seek to ensure that housing development is of a high standard of design that is compatible with the character of its surroundings. Whilst the LP pre-dates the National Planning Policy Framework by about 5 years the aims of those policies are consistent with the core planning principles of the Framework which indicate that planning should always seek to ensure high quality design. I therefore give them full weight.
11. I consider that the proposed dwelling on the reduced size plot would not detract from the character and appearance of the area and would not conflict with LP Policies HSG7 and ENV1.

Other matters

12. The existing house is a substantial property of some character and residents have indicated that it should be retained. However the building is not statutorily listed and it is not within the CA. The Council has already granted permission for a replacement dwelling and concern for the principle of its demolition does not justify the refusal of permission for a replacement. Residents have also expressed concern about the adequacy of car parking and access arrangements; however the off-street car parking proposed in the form of a garage and parking area would satisfy the local parking standards and the highways authority raises no objection to the proposal. I have noted comments about drainage and a nearby private drinking water supply but I have received no substantive evidence to indicate that either of these matters would justify the refusal of permission.

Conditions

13. In order to safeguard the character and appearance of the area I have imposed conditions requiring the submission of details of hard and soft landscaping, tree and hedgerow protection measures and the approval of the surface materials of the buildings.

14. To prevent over looking of adjacent dwellings I have imposed a condition requiring that the windows in the north-east facing walls of the house must be glazed in obscured glass and non-openable below 1.7m. In formulating this condition I have been guided by the requirements of the *Town and Country Planning (General Permitted Development) Order 1995(as amended)* and the advice in the accompanying *2010 Technical guidance*. A condition also prevents the insertion of additional windows in both flank walls and prevents windows from being installed in the north-east wall and roof slope of the garage. I also impose the standard conditions controlling the commencement of development and identifying the approved drawings.

Conclusion

15. Taking account of all matters I have concluded that the proposed dwelling would not detract from the character and appearance of the area and that the appeal should succeed.

Clive Tokley

INSPECTOR



Appeal Decision

Site visit made on 29 November 2012

by **G Powys Jones MSc FRTPI**

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

Decision date: 11 December 2012

Appeal Ref: APP/J1915/A/12/2178822

**Land south of West End Road, Wormley West End, Broxbourne,
Hertfordshire, AL6 0NQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Michael O'Connor against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/1958/FP, dated 8 November 2011, was refused by notice dated 31 January 2012.
 - The development proposed is the erection of 6 stables, WC, & associated feed and bedding barn.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The Council, in its reasons for refusal, and the appellant refer to aspects of national policy replaced by the *National Planning Policy Framework* (the Framework). The Framework's policies and guidance shall therefore prevail.
3. Having regard to the main issues I consider the most relevant local policies are policies GBC1, ENV1, ENV2, ENV11, ENV14 & ENV17 of the East Herts Local Plan Second Review (LP). These are broadly consistent with the Framework's policies and guidance on the GB, design, landscape protection and nature conservation, and shall therefore be afforded full weight.
4. I have considered the representations made by various consultees including Natural England, the Wildlife Trusts of Herts & Middlesex, the Hertfordshire Biological Records Centre, the Broxbourne Woods Area Conservation Society, the Brickendon Liberty Parish Council and several local residents. Most of the main planning related points raised are considered below, having regard to the identified main issues. Although I have read the concerns, there is no compelling evidence justifying a dismissal on the grounds of highway safety, and I note that the Council did not object for this reason.

Main issues

5. The main issues are:
 - Whether the proposed development is inappropriate development in the green belt (GB) in the terms of the Framework and local development plan policy;

- The effect on the openness of the GB, and the character of the surrounding area;
- The effect on nature conservation;
- If it is inappropriate development, whether the harm caused by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate or not inappropriate development

6. The proposed L-shaped building would incorporate 6 stables, a WC, an area for storage and a mezzanine level to be used as a tack room, accessed by a set of external stairs. The building as a whole, according to the annotated dimensions on the submitted plans, would have a footprint of approximately 240 sq.m and a ridge height of just over 6m.
7. Paragraph 81 of the Framework says that local planning authorities should plan positively to enhance the beneficial use of the GB by providing opportunities for outdoor sport and recreation, whilst paragraph 89 says that the provision of appropriate facilities for outdoor sport and outdoor recreation is not inappropriate in Green Belts. LP policy GBC1 indicates that essential small scale facilities for outdoor sport and outdoor recreation would not be regarded as inappropriate in the GB. The Council does not consider that the proposals are either essential or small scale in the terms of LP policy GBC1.
8. The size and scale of the building appears to be governed, not by reference to a generally acknowledged standard, but by the appellant's requirements, in the sense that space is required to stable 6 horses, together with what are considered to be appropriate ancillary requirements. The size of the storage element of the building is said to have been calculated on the storage capacity required for bedding and forage for 6 stabled horses. However, no calculations have been provided in support of this assertion. The height of the barn is said to be governed by the need to stack bales, the perceived need for vehicular access, and to provide space for a tack room.
9. In my view, insufficiently compelling evidence has been provided to justify the overall size of the building. In my experience, a smaller building than proposed could adequately cater for the stabling of 6 horses, and their reasonable ancillary requirements. Whilst I consider the proposed development to be an appropriate facility in terms of its use in the terms of the Framework, it is not an appropriate facility in terms of its scale, which I consider excessive. Whilst stables may be considered essential for equine welfare in the context of sport or recreation, the proposed building is not small scale, having regard to its principal purpose.
10. I therefore conclude the proposal to be inappropriate development in the GB in the terms of the Framework and LP policy GBC1. Inappropriate development in the GB, by definition, is harmful, and this attracts substantial weight against the scheme.

Openness & character

11. I fully understand the reasons for siting the proposed building in the corner of the field owned by the appellant. The site is low lying in comparison with surrounding land, and it is relatively secluded and visually sheltered by vegetation and trees, even in the depths of winter when defoliation has taken place. Additionally, it is close to the existing access point. The development would not appear to harm any existing trees or hedgerows, and I therefore see no conflict with the provisions of LP policies ENV2 & ENV11, directed to protecting existing landscape features and extant vegetation.
12. The building would be sited in attractive verdant countryside characterised by sporadic development, including several examples of equestrian associated buildings and uses. Stables would not therefore be an uncharacteristic additional element in the local landscape, and this weighs moderately in the proposal's favour.
13. However, one of the essential characteristics of the GB is its openness, which would be compromised by the erection of the proposed building in view of its excessive scale. A more appropriately sized building, would have less effect on openness, and would be more consistent with the thrust of local and national policy.
14. I conclude that the proposed building, in view of its excessive scale, would harm the openness of the GB, thus conflicting with the Framework's guidance. This attracts substantial weight against the development.

Nature conservation

15. The appeal site affects land cordoned off from the appellant's main field, in an area described as a former cattle corral. The survey commissioned by the appellant suggests that this relatively small area is unremarkable in terms of its vegetation, a finding not seriously challenged by the Council.
16. However, the Council's main concerns on biodiversity relate more to the open field than the corralled area, since it is designated as part of a Local Wildlife Site on account of its ecological significance due to the diversity of species of unimproved grassland displayed. It considers that horse grazing would harm the special qualities of the locally designated site.
17. The appellant, having regard to his survey's findings, does not seriously question the ecological value of the field. However, he asserts that the open field does not form part of the formal proposals, and that planning permission is not required to graze horses upon it. Both statements are, in my view correct, but the likelihood of the land being constantly and consistently grazed by horses would increase significantly if stabling, such as proposed, were immediately available. The Council's concerns are therefore well founded.
18. The appellant's ecologists acknowledge that increased grazing by horses could be detrimental to the ecological value of the field. However, they equally consider that appropriately managed grazing is required to prevent neglect, and consequent deterioration in grassland quality. They suggest the adoption of an appropriate management regime to ensure that the quality of the pasture is maintained. Whilst some general suggestions have been made as to the composition of a management regime, no firm comprehensive proposals have been put before me.

19. I disagree that the issue of a prospective management regime should be dealt with by condition, as suggested by the appellant. Clear evidence that the land would be properly managed, in view of its acknowledged ecological significance, is central to my decision on the appropriateness of the proposals, not least because a properly considered management regime could conceivably place a limit of fewer than 6 grazing horses as an appropriate number so as to ensure the future ecological quality of the pasture. It could also influence the amount of stabling needed. The British Horse Society's view of normally appropriate stocking rates has been noted, but no confirmation has been provided that this would apply equally to sites of undisputed ecological value.
20. In the absence of an agreed or proposed management regime, I conclude that the field adjoining the appeal site, designated as a Local Wildlife Site, would be at risk of being adversely affected by the proposals, contrary to the provisions of LP policy ENV14. This weighs moderately against the scheme.

Very special circumstances

21. The harm I have identified as a consequence of the inappropriateness of the development and its effect on the openness of the GB weigh substantially against the development. The potential harm to a designated Local Wildlife Site weighs moderately against the scheme. That stables would not be an uncharacteristic form of development in this part of the GB carries moderate weight in the proposals' favour, but I conclude it is insufficient to clearly outweigh the harm to the Green Belt and the interests of nature conservation. The very special circumstances necessary to justify the development therefore do not exist, and the appeal, accordingly, is dismissed.

G Powys Jones

INSPECTOR



Appeal Decision

Site visit made on 13 November 2012

by Olivia Spencer BA BSc DipArch RIBA

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

Decision date: 23 November 2012

Appeal Ref: APP/J1915/A/12/2174244

**Land adjacent to Hillside Bungalow, Hillside Lane, Great Amwell,
Hertfordshire SG12 9SH**

- 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 Taylor against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/2060/FP, dated 4 November 2011, was refused by notice dated 26 March 2012.
 - The development proposed is erection of a detached 2 bedroom bungalow.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt
 - the effect of the proposal on the openness of the Green Belt and on the setting of the barn at Hillside Farm which is listed grade II, and
 - whether there are any considerations sufficient to clearly outweigh harm to the Green Belt and any other harm thus amounting to the very special circumstances necessary to justify the development.

Reasons

3. The appeal site lies within the Metropolitan Green Belt. Policy GBC1 of the East Herts Local Plan Second Review 2007 accords with the general presumption against inappropriate development in the Green Belt set out in the National Planning Policy Framework (the Framework) in seeking to restrict development to a limited number of categories. The proposed development is for none of the defined purposes and would thus be inappropriate development which by definition is harmful to the Green Belt.
4. The proposed bungalow would occupy part of the garden of Hillside Bungalow doubling the number of dwellings on the plot and adding substantially to the mass of buildings that make up the small cluster at Hillside Farm. Views of the site may be limited by vegetation, but openness in terms of the Green Belt means freedom from development and is only partially concerned with visibility. The harm arising from a loss of openness on the site is not

diminished by the absence of similar harmful development on the surrounding fields. The effect would be to reduce the openness of the Green Belt adding to the amount of built development between Great Amwell and St Margarets. In accordance with the Framework, the weight I give to this harm is substantial.

5. The grade II 16th Century timber framed barn forms part of a yard of former agricultural buildings to the north west of the appeal site. It is this yard and the surrounding fields that in my view provide the agricultural setting for the listed building. The proposed dwelling would sit further from the barn than the existing bungalow and within what is now a domestic garden. I conclude the setting of the listed building would thus be preserved and find no significant harm therefore in this respect.
6. I have concluded that the development would not result in any significant harm to the setting of the listed building but the weight I give to harm to the Green Belt by reason of inappropriateness and loss of openness is substantial. The appellant has put forward no case that benefits would arise from the proposed development, relying instead on what they consider to be a lack of harm. There is nothing in this to weigh positively in favour of the proposal. I therefore find no considerations sufficient to clearly outweigh harm to the Green Belt and conclude that no very special circumstances exist that would justify the development proposed.

Olivia Spencer

INSPECTOR



Appeal Decision

Site visit made on 13 November 2012

by **Clive Tokley MRTPI**

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

Decision date: 11 December 2012

Appeal Ref: APP/J1915/A/12/2177599

Land at Rectory Farm, Langley Lane, Meesden, Buntingford, SG9 0AZ.

- 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 Shajeed Shaikh against the decision of East Herts Council.
 - The application Ref 3/12/0159/FP, dated 24 January 2012, was refused by notice dated 29 March 2012.
 - The development proposed is an agricultural building.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the countryside and its effect on nature conservation and the nearby protected woodland.

Reasons

Character and appearance

3. The appeal site lies in partly-wooded countryside some distance from built-up areas. Access from the main road network is via narrow winding lanes and the surrounding area is mainly open arable land with large fields divided by hedgerows. A cluster of buildings at Rectory Farm to the north is separated from the appeal site by an area of grazing land that widens into open fields to the east.
 4. At its northern end the appeal site borders the highway but to the south of this a wooded narrow wedge of land separates it from the road; at the time of my visit the hedgerow vegetation and many of the trees, both within this wedge and on the site, had lost their leaves allowing clear views into the appeal site from the road. This condition would be likely to prevail for about half of the year but my impression was that at all times a passer-by would be aware of a building of the size proposed on the appeal site.
 5. The walls of the proposed egg farming barn would be clad in timber with timber shingles on the roof. Whilst these finishes would give the building something of
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a rustic exterior they would not disguise the overall scale and bulk of the building which would be about 30m long by over 15m wide with a shallow-pitched roof reaching a height of about 4m. Whilst this design is no doubt functionally efficient I consider that the size and design of the building would not reflect the traditional character of rural buildings in this area.

6. The proposal indicates that the site would be bounded by evergreen hedges and trees and that within the body of the site fruit trees would be planted around the building. Fruit trees within a working orchard would have no leaves for much of the year and would be likely to require thinning and pruning. In my view they would not disguise the presence of the proposed building on the site. In time the proposed evergreen planting would hide both the building and the orchard; however evergreens that have been densely planted to form a screen would be alien to the rural environment in this area and would be materially detrimental to the character and appearance of the area where broadleaved woodland predominates.
7. The proposal barn would be over 50m from the nearest building at Rectory Farm and it would be both physically and functionally separate from that group of buildings. Policies GBC2 and GBC3 of the East Herts Local Plan Second Review of April 2007 (LP) indicate that buildings for agricultural purposes may be appropriate in rural areas. However I consider that as a result of the size, scale and location of the building and the proposed landscaping the proposal would detract from the character and appearance of the countryside and would therefore conflict with LP Policy GBC7 (Agricultural Development). The LP Policies pre-date the National Planning Policy Framework by five years; however the objectives of the LP are consistent with one of the core planning principles set out in the Framework which indicates that one of the functions of the planning system is the recognition of the intrinsic character and beauty of the countryside. I therefore give the LP Policies full weight.
8. The appellant indicates that the isolated location of the building is necessary to prevent the use from having an adverse effect on the occupiers of residential properties. However the proposal is not required to support an existing rural business and I have seen no evidence of an overwhelming need for the proposal that would be sufficient to outweigh the harm to the character and appearance of the area.
9. Policies GBC2 and GBC3 give no indication that the viability of a proposed agricultural enterprise is necessary to justify the granting of permission. However economically unsustainable development may result in unnecessary or abandoned buildings in the countryside that would detract from its intrinsic character. I therefore consider it reasonable to ensure that new businesses within the rural area that require buildings should be viable. The Council and the appellant go to some length in setting out their differing views as to the viability of the proposal but I have insufficient evidence to reach a clear conclusion on this matter. However in the light of my firm conclusion on the effect of the proposal on the character and appearance of the area there is no need for me to explore this matter further.
10. On this issue I conclude that the proposal would unacceptably detract from the character and appearance of the countryside.

Nature Conservation

11. Until the summer of 2011, when most of the trees on the land were felled, the site was an area of woodland that formed part of the Meesdenhall Wood Local Wildlife Site. Following the felling of the trees the Council placed a "woodland" tree preservation order on the land. The Council indicates that the land is now the subject of a Forestry Commission restocking notice.
12. The appellant indicates that the building would occupy no more than about 10% of the land and that the proposed orchard would benefit the biodiversity of the site. In support of the proposal he refers to a report from the Hertfordshire Biological Records Centre (HBRC). The HBRC formal response to the Council draws attention to the benefits arising from the Hertfordshire Orchard Initiative; however it questions some of the details of the proposal and indicates that more information is needed, including an Orchard Management Plan. It makes no formal recommendation in relation to the principle of the proposed development but sets out recommendations for conditions if the Council is minded to grant permission. Within these conditions the HBRC indicates that trees and hedges should be native broadleaved species and that a condition should be imposed to prevent chickens from damaging the ground flora and the orchard.
13. The Herts and Middlesex Wildlife Trust objects to the proposed development and strongly recommends that the application should be refused. It indicates that the appellant's assessment of the proposal fails properly to take account of the effects of the tree felling that has already taken place. It indicates that in order to protect the ecological integrity of the adjacent ancient woodland and the Local Wildlife Site the appeal site should be replanted with native woodland species.
14. The proposed building with its associated access, manoeuvring and parking areas would reduce the area of the site available for vegetation. The use would result in activity, lighting and disturbance in and around the building which would be likely to be disruptive to local fauna. The habitat created by fruit trees may be of benefit to certain species but orchard trees would be alien to the native woodland environment for which this area has been designated. Whilst the chickens may be living in their natural woodland habitat I consider that their free range presence at a high density on the site would be likely to materially change the ecological balance in the area.
15. The HBRC encouragement to plant orchards is qualified by concerns about the proposal. I consider that the management of the orchard may impact on other aspects of the proposal, including the number of free range chickens on the land. This aspect of the proposal would be fundamental to nature conservation issues and in my view it would not be appropriate for resolution through the use of planning conditions.
16. Based on what I have read and seen I am not convinced that the proposal would not have an adverse effect on the ecology of the site and the nearby ancient woodland. The appellant indicates that the proposal would result in the production of high quality foodstuffs and that it would create local employment. However I have seen no clearly demonstrated reasons why the proposal should be located on this site.

17. I consider it likely that the proposal would be harmful to nature conservation interests both on and around the appeal site. The proposal would therefore conflict with LP Policy ENV1 which indicates that, amongst other things, all development proposals will be expected to have regard to nature conservation interests. It would also conflict with Policy ENV14 which indicates that development likely to have an adverse effect on nature reserves will not be permitted unless there are reasons for the proposal that outweigh the nature conservation value of the site. These policies are consistent with another of the core planning principles set out in the Framework which indicates that one of the functions of the planning system is to contribute to conserving and enhancing the natural environment. I therefore give them full weight.

18. On this issue I conclude that the proposal fails to demonstrate that the proposal would not detract from the nature conservation interests of the Meesdenhall Wood Local Wildlife Site.

Other matters

19. The appellant indicates that the appeal site would benefit from agricultural "permitted development" rights. It is not the purpose of this decision to determine whether development requires formal planning permission but I am satisfied that those rights would not include the carrying out of the proposed development. The carrying out of any "permitted development" that may exist would therefore not represent a fall-back position for the appellant.

20. A number of residents from the surrounding area have raised concerns about the traffic generated by the proposal and the effect of the proposal on their living conditions. However I consider that these factors would not in themselves justify the refusal of permission and this is reflected in the refusal reasons set out by the Council.

Conclusion

21. Taking account of all matters I conclude that the proposal would materially detract from the character and appearance of the countryside and nature conservation interests and that the appeal should not succeed.

Clive Tokley

INSPECTOR



Appeal Decision

Site visit made on 13 November 2012

by Olivia Spencer BA BSc DipArch RIBA

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

Decision date: 4 December 2012

Appeal Ref: APP/J1915/A/12/2178495

The Jolly Sailor, 2 Station Road, Buntingford, Hertfordshire SG9 9HU

- 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 The Jolly Sailors against the decision of East Hertfordshire District Council.
 - The application Ref 3/12/0474/FP, dated 19 March 2012, was refused by notice dated 16 May 2012.
 - The development proposed is extension to provide landlords accommodation.
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Decision

1. The appeal is dismissed.

Main Issues

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

Reasons

3. The Jolly Sailor public house occupies a prominent position at the junction of Station Road, Hare Street and Union Terrace. Together with the adjacent houses in Union Terrace and with Bridgefoot House it contributes significantly to the historic character and appearance of the Conservation Area.
4. The main part of the appeal building is long and low with a steeply pitched roof and tall chimneys. To the rear are 2no. 2 storey projecting extensions which by virtue of their simple form and low overall height relative to the main building do not appear overly prominent. The proposed additions in contrast would have a complex geometry with relatively shallow pitched roofs of various heights running in 4 directions. Although marginally lower overall than the main building, the roof over the greatest area of the proposed 2nd storey addition would be higher than that of the 2 existing extensions beyond which it would sit. The north and east gables of this roof would have large windows unconventionally off-set from their centres, adding further to the confused form of the proposed extension.
5. Although set back within the site and enclosed by a wall along the street boundary, the proposed extension would be clearly visible from the higher street level of Union terrace. From here the 2 storey element in particular would be seen as a large bulky and poorly designed structure, unrelated in form or proportion to the main building. As a result I consider the extension

would inappropriately dominate the original structure and the adjacent buildings in Union Terrace. The harmful effect this would have on the character and appearance of the Jolly Sailor and on the Conservation Area would in my judgement be substantial.

6. I conclude therefore that the proposed development would have a detrimental effect on the character and appearance of the host building and would fail to preserve the character and appearance of the Conservation Area contrary to Policies ENV1 and BH5 of the East Herts Local Plan Second Review 2007.

Other considerations

7. I understand the desire to improve the accommodation and note that the appeal scheme is an amended version of an earlier application. I note also the benefits of the proposal in terms of a reduced need to travel and the more effective management of the public house. However, I have seen no convincing evidence to suggest that these objectives could be met only by provision of an extension as proposed. Having regard to the National Planning Policy Framework I conclude that public benefits of the proposal are not sufficient in this case therefore to outweigh substantial harm to the Conservation Area, and that the appeal should therefore fail.

Olivia Spencer

INSPECTOR



Appeal Decisions

Site visit made on 14 November 2012

by Olivia Spencer BA BSc DipArch RIBA

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

Decision date: 11 December 2012

Appeal Ref: APP/J1915/E/12/2178784

2 Cherry Green Barns, Cherry Green, Westmill, Buntingford SG9 9NQ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Miss Karen Smith against the decision of East Hertfordshire District Council.
 - The application Ref 3/12/0716/LB, dated 17 April 2012, was refused by notice dated 20 June 2012.
 - The works proposed are a single storey extension with glazed link to an existing garden room within an outbuilding.
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Appeal Ref: APP/J1915/A/12/2178774

2 Cherry Green Barns, Cherry Green, Westmill, Buntingford SG9 9NQ

- 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 Miss Karen Smith against the decision of East Hertfordshire District Council.
 - The application Ref 3/12/0715/FP, dated 17 April 2012, was refused by notice dated 7 June 2012.
 - The development proposed is a single storey extension with glazed link to an existing garden room within an outbuilding.
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Decision

1. The appeals are dismissed.

Reasons

2. The appeal property is one of a collection of traditional farm buildings now converted to residential use. The grade II listed farm house lies to the west beyond the farmyard wall. The barns retain their historic simple and robust form, and notwithstanding the insertion of a modern barn/carport into the centre of the group and changes to the former central section, the basic layout and original relationship of the farmyard buildings to the farmhouse remains evident. The agricultural character of the buildings and their spatial relationship to each other and to the farmhouse bears witness to the historic function of the group and gives meaning to their architectural form. As such they are important features of the special interest and significance of the listed buildings.
3. The proposed extension and glazed link would have a small scale, overtly domestic appearance, and in connecting the modern barn/carport to the converted barn, would blur the distinction between historic structure and the

new insertion in the farmyard. Unlike the historic structures, the proposed additions would be off-set from the farmyard wall leaving an awkward slither of contained space behind them. Further the 2 elements would wholly infill the gap between buildings at this point diluting the visual connection between the farmyard and the farmhouse and concealing a substantial part of the farmyard wall from views within the yard. I consider the proposed extensions would thereby diminish the agricultural character of the barns and erode the historic spatial relationship of buildings within the farm group.

4. The appellant has referred to a glazed link allowed on appeal at Dowers. However, I noted at my site visit that although sympathetic in style to the barns, this dwelling is a modern house constructed beyond the historic farmyard. The house sits much closer to its games room than does the appeal property and I noted that in contrast to that proposed, very little of the glazed link was visible from the front of the house. Its impact cannot therefore in my view be compared with that of the appeal scheme which I have considered on its own merits.
5. I conclude for the reasons given that the proposed extension and glazed link would fail to preserve the special interest of the farm buildings and the setting the listed farmhouse. The development would thus be contrary to the objectives of Policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review 2007 which seek to ensure that extensions are compatible with the original building and its setting.

Olivia Spencer

INSPECTOR



Appeal Decision

Site visit made on 3 December 2012

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

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

Decision date: 17 December 2012

Appeal Ref: APP/J1915/D/12/2182556

32 Bye Street, Hertford SG14 3AR

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Jack Whitelegg against the decision of East Hertfordshire District Council.
 - The application Ref 3/12/0817/FP, dated 11 May 2012, was refused by notice dated 6 July 2012.
 - The works proposed are a single storey extension to the side and loft conversion with timber dormer.
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Procedural Matters

1. I note that the side extension, which the council does not object to, has been constructed and there has been no request for a split decision.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is the effect of the dormer window on the character and appearance of the surrounding area, including the house and the Hertford Conservation Area.

Reasons

4. The development plan includes the East Herts Local Plan Second Review [LP]. LP Policy ENV1 expects all proposals, including extensions, to be of a high standard of design. LP Policy ENV5 permits extensions to dwellings provided the character and appearance of the dwelling would not be seriously affected. LP Policy ENV6 indicates that the design of extensions should be complementary to the original building. Roof dormers may be acceptable if appropriate to the design and character of the original dwelling. These should generally be of limited extent and modest proportions, so as not to dominate the existing roof form. LP Policy BH5 requires proposals for extensions to be sympathetic to the character and appearance of the conservation area. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. In my view, the special interest of the conservation area relates to the age, varied design and layout of buildings within it.

5. The proposed dormer is not of a high standard of design, but in my view would appear as a utilitarian addition, mainly designed to create more space in the attic. In addition, it would not be of limited extent and modest proportions. It would be a large, bulky structure, with the roof at the same height as the ridge of the main house and extending over a large width of the roof slope. It would clearly unacceptably dominate this part of the roof and would not be complementary to the design of the main house, but would seriously affect its character and appearance. While it is at the rear of the dwelling, it would still be visible from other properties and would not preserve or enhance the character or appearance of the conservation area as a whole. It therefore would not accord with LP Policies ENV1, ENV5, ENV6 and BH5.
6. I appreciate that the appellant would like to create more space in the attic, but the benefit of this would not be sufficient to outweigh the harm the proposal would cause to the character and appearance of the house and area.
7. The appellant argues that other properties in the area have dormer windows. Every proposal must be considered on its own merits, taking into account the individual circumstances of the particular location. Those just down the road from the appeal site are much smaller and better designed in relation to the property on which they are located. The presence of other dormer windows does not persuade me that this proposal would be acceptable, and even if there are other similar to that proposed here, the poor arrangement of one extension should not be used to justify the similar design of another; the end result would be a gradual deterioration of design standards for house extensions.
8. For the reasons given above I conclude that the appeal should be dismissed.

Graham Dudley

Inspector



Appeal Decision

Site visit made on 3 December 2012

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

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

Decision date: 19 December 2012

Appeal Ref: APP/J1915/D/12/2186687

Folly Cottage, Bury Green, Little Hadham, Ware, Herts SG11 2ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Gay against the decision of East Hertfordshire District Council.
 - The application Ref 3/12/1208/FP, dated 16 July 2012, was refused by notice dated 30 August 2012.
 - The development proposed is demolition of the existing single storey double garage and conservatory. Construction of a new 1.5 storey side extension, extension to the front porch. Existing side addition to have roof line adjusted and ridge raised, with the addition of a single storey orangery to the rear. Various internal alterations.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework (The Framework) and development plan policy.
 - The effect of the development on openness of the Green Belt
 - The effect of the development on the character and appearance of the surrounding area.
 - 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 Framework notes that the government attaches great importance to Green Belts. The development plan includes the East Herts Local Plan Second Review [LP]. LP Policy GBC1 notes that permission will not be given for inappropriate development in the Green Belt unless very special circumstances can be demonstrated. It notes that limited extensions or alterations to dwellings in accordance with LP Policy ENV5 would not be inappropriate development. LP Policy ENV5 expects an extension to be of a scale and size that would either by

itself or cumulatively with other extensions not disproportionately alter the size of the original dwelling nor intrude into the openness of the surrounding area.

4. The council calculates the original floor area to be about 108m². The cumulative increase in the floor area over and above the original dwelling would be about 254%. This would be a substantial overall increase on the original dwelling and cannot be considered as being a limited extension, but would be disproportionate in relation to the original dwelling. I therefore conclude that this would be inappropriate development in the Green Belt which is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Openness of the Green Belt

5. The appellant does not consider that the proposal would intrude into the openness of the Green Belt. I do not agree, as the proposal, taking into account the parts of the structure that would be removed, would clearly add significant extra bulk to the building, by raising up part of the existing pitched roof and adding a considerable extension on the opposite side. Whether or not the current building is unattractive, this additional bulk would have a substantial impact on the openness of the Green Belt and would be visible particularly from the adjacent right of way. I note that the appellant would provide additional planting, enforceable through a planning condition. However, this would not reduce the impact of the bulk of the building on the openness of the Green Belt. Therefore, even if considered as partial redevelopment of previously developed land, it would still be inappropriate development because of the greater impact it would have on openness.
6. The Framework notes that the essential characteristic of the Green Belt is its openness and permanence and that substantial weight should be given to any harm to the Green Belt.

Character and Appearance

7. The proposed extension and alterations would substantially change the appearance of the dwelling, but I acknowledge that the changed design would still be appropriate for a country area. However, the scale of the building would be significantly increased. I consider that this increase in the size of the building and changed arrangement would detract from the small scale and appearance of the existing building, and this reflects the finding above that the proposal would not result in a limited or proportionate extension in relation to the original building.

Very Special Circumstances

8. I do not agree with the appellant that the current building is unattractive. However, I acknowledge that its appearance could be improved, but that might well be achieved without a significant extension. I also accept that the extension and alterations would be complementary in design terms to the building, but the extent of the improvement is not such that significant weight should be attached to the proposed development.
9. I note that a previous extension was permitted, but never implemented. The council acknowledge that extension would not have been considered as a limited extension, but also that what is now proposed would be larger than that previously approved. That extension was not constructed and the permission is

not extant and therefore my consideration of the harm to the Green Belt is what is now proposed against what is currently in place, assessed against policies. What is proposed is a significant addition that would cause substantial harm to the openness of the Green Belt and while I acknowledge the previous permission, I attach limited weight to it, particularly as what is proposed would be larger.

10. I note that increased development would make more efficient use of the land. However, the current property also makes good use of the land and the additional benefit of the proposal only adds limited weight in support of the extension. I have also taken into consideration the proposed energy efficiency of the resulting dwelling and the beneficial sustainability measures that are proposed, which add moderate weight in support of the proposal.
11. I acknowledge that there are no issues relating to the highway, neighbours or neighbouring buildings.
12. The appellant also argues that as a fall-back they could build other development under permitted development rights that would be more harmful to the Green Belt. No detailed plans have been put forward for assessment. Whether or not it would be possible to build other structures under permitted development, the evidence provided does not suggest at this time that there is a real likelihood that such development would be built and I therefore attach little weight to it, and the offer to restrict future permitted development rights.
13. I also note that Bushes Croft has recently been given permission for a substantial extension. The appellant has not been able to find exact floorspace figures. Presumably that extension, even though it added significant bulk, was considered under the council's policies to be a limited extension in relation to the original dwelling and in accordance with the aims and objectives of the council's policies. The fact that other properties are extended does not indicate that significant weight should be given to extensions elsewhere that are not in compliance with policies.
14. I have taken account of the arguments raised by the appellants in favour of the proposal as described above, but neither individually, nor taken together, do I consider that these amount to very special circumstances that would outweigh the substantial harm identified to the Green Belt in relation to inappropriateness and openness. I conclude that the proposal would not accord with the aims and objectives of the Framework and LP Policies GBC1 and ENV5.

Graham Dudley

Inspector