



Appeal Decision

Site visit made on 20 December 2012

by John Murray LLB, Dip.Plan.Env, DMS, Solicitor

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

Decision date: 25 January 2013

Appeal Ref: APP/J1915/A/12/2178912

Land adjacent Home Farm, Chapel Lane, Hadham Ford, Ware, SG11 2AB

- 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 Croft Group UK Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/1801/FP, dated 10 October 2011, was refused by notice dated 4 January 2012.
 - The development proposed is the erection of 2 No 4 bedroom houses and 1 No 2 bedroom affordable home together with access and associated parking.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal is acceptable having regard to policies aimed at promoting sustainable development, meeting housing need and safeguarding the character and appearance of the area, which is part of the Hadham Ford Conservation Area (CA).

Reasons

3. Consistent with Government policy, as expressed in the National Planning Policy Framework (the Framework), the East Herts Local Plan Second Review (LP), adopted April 2007, seeks to direct new housing development to the most sustainable locations. Hadham Ford is within the area defined in the LP as the Rural Area Beyond the Green Belt. Saved LP Policy GBC3 says that, in this area, new buildings will only be permitted in specified circumstances. One of these is where the scheme constitutes limited infill development in Category 2 Villages, in accordance with saved LP Policy OSV2(II). Hadham Ford is identified as a "Category 2 Village" in saved LP Policy OSV2(I). This village does not have a defined settlement boundary but, among other things, LP Policy OSV2(II) provides that, subject to various caveats, infill housing development may be permitted within the built-up area.
4. The appeal site is a paddock which lies between the dwellings Little Sparrows and Hunters to the east and Grove Barn and The Granary¹ to the west. Little Sparrows and Hunters are shown on the 1977 Ordnance Survey (OS) map. They lie to the north of other dwellings and outbuildings on the other side of Chapel Lane which, by reference to the 1879 OS map, have been in existence since at least that date. To the east of Little Sparrows and Hunters are other

¹ Shown as 'The Granery' on the submitted plans.

dwellings and The Nags Head public house, which fronts the main street of the village. The majority of buildings are located alongside that main street and on the Ridgeway, a cul-de-sac of post-war council houses, which leads off the main street, at the northern end of the village. Indeed, Little Sparrows is accessed from the main street. A short distance to the south-east of Hunters, but still on Chapel Lane, are the Congregational Church and the Church Hall². Although relatively modern, both Hunters and Little Sparrows are well established and closely associated with the heart of the village. As a result, they read as part of the built-up area for the purposes of LP Policy OSV2(II).

5. As their names suggest, Grove Barn and The Granary have been converted to dwellings from former agricultural buildings, within the Home Farm complex and these buildings are shown on the 1879 OS map. To the south of the farm complex, there are 2 modern dwellings, Sammy Croft and Foxearth, which the appellant says were erected in the 1980s³. Though they clearly do not constitute a separate settlement, all of those buildings to the west of the appeal site form a cluster of development, which is separated from the built-up area of the village by the appeal site, as well as the paddock and fields to the south of Chapel Lane. By reference to the historical maps provided, the appeal site and the open land to the south of Chapel Lane have been free from built development for at least the last 133 years.
6. Although the appeal site frontage is only some 37m, the site forms part of a gap of about 60m between Hunters and the buildings associated with The Granary and Grove Barn. Regardless of its visual contribution to the character and appearance of the area, this is a significant gap and I am satisfied that, though it is adjacent to it, the appeal site is not within the built-up area of the village for the purposes of LP Policy OSV2(II).
7. The appellant suggests that there are no other suitable infill sites within the built-up area because, among other things, of flood risk and the potential impact on listed buildings and the CA. Without identifying specific options, the Council, Little Hadham Parish Council and neighbouring residents say that an active Neighbourhood Planning Group is working hard to identify suitable infill sites. Having looked at the OS maps and walked around the village, I recognise the constraints identified by the appellant, but I am not in a position to rule that there are no other suitable infill sites. There are some gaps in the built frontage and any proposal would have to be considered in detail on its merits, including the quality of the design and flood mitigation measures. In any event, the constraints identified by the appellant are not sufficient to alter my conclusion that the appeal site is not within the built-up area.
8. In addition, whilst LP Policy OSV2(II) permits infill development, part of the LP definition of such development is that it consists of "the erection of up to five small dwellings." Although only 3 dwellings are proposed, 2 of them are substantial 4 bedroom detached houses. They cannot reasonably be described as small and for all the reasons given, the proposal does not comply with LP Policy OSV2(II).
9. The appeal scheme does not fall within any of the other categories of potentially acceptable development specified in LP Policy GBC3. In particular,

² The appellant says that planning permission was granted on appeal for the change of use of this hall to a dwelling.

³ I note that they do not appear on the 1982 OS map.

although GBC3(f) supports small scale affordable housing for local needs within existing rural settlements, the majority of this development would be free market housing. Accordingly, the proposal also conflicts with Policy GBC3.

10. I note that, in addition to requiring any development proposal to be within the built-up area of the village and comprised of small dwellings, LP Policy OSV2(II)(b) requires any housing proposal to meet a local need, which has been identified in the latest District Housing Needs Survey or a subsequent parish survey. Although I have not been provided with a copy or extract, the appellant points out that the Council's 2004 Housing Needs Survey identifies a need for 27 No 4 bedroom houses, 9 No 3 bedroom bungalows and 5 No 2 bedroom houses in Little Hadham.⁴ Despite its age, the 2004 survey is the only evidence I have on local need. Nevertheless, given that local need is just an additional requirement under LP Policy OSV2(II), the apparent existence of such a need is insufficient to overcome the other conflicts with that policy.
11. The Council's Annual Monitoring Report (AMR) 2010/2011 revealed that the Council only had a 4.4 year supply of housing, measured against the 660 dwellings per annum (dpa) requirement set out in the East of England Plan (EEP), published May 2008. However, the AMR noted the Government's intention to revoke Regional Spatial Strategies (RSSs). It also referred to the Government's indication that local planning authorities should devise their own housing targets and its advice, prior to the High Court decision prohibiting the initial abolition of Regional Spatial Strategies without a full Environmental Impact Assessment, that Councils could revert to their "Option 1" figures to monitor housing land supply. The AMR explains that the "Option 1" figures are those from the Draft East of England Plan to 2031, which was approved by the previous East of England Regional Assembly and submitted to Government in March 2010. The Option 1 figures gave rise to a requirement of 550 dpa, namely 5 fewer than the requirement in the LP for the period up to 2011. On the basis of the Option 1 figures, the AMR concluded that the district had a 5.3 year housing supply.
12. With effect from 3 January 2013, the EEP was revoked by The Regional Strategy for the East of England (Revocation) Order 2012 and accordingly there is no longer a development plan requirement to provide 660 dpa. It is now for the Council to devise its own housing targets and the Council states that an updated AMR will be reported to the District Executive Panel in February 2013, which will "probably be based on Option 1 figures." Furthermore, the Council is currently working on the draft District Plan which it says "will include new housing figures."
13. The district's housing requirements are uncertain for now, but given the revocation of the 2008 EEP, the most up to date housing figures are the Option 1 figures set out in the later draft EEP, albeit that this was never adopted. Against that figure, the Council's 5.3 year supply would satisfy the Framework's basic requirement for a 5 year supply, plus a 5% buffer. However, the appellant analyses the Council's performance in previous years against LP and EEP requirements and argues that there is a record of persistent under delivery of housing, such that the Framework's requirement for a 20%, rather than 5% buffer should apply. The Council does not respond to that argument and it has some force, but that force is nevertheless diminished by the current uncertainty over housing figures. The requirement in the Framework to boost

⁴ Hadham Ford lies within the Little Hadham parish and ward.

significantly the supply of housing is aimed at ensuring that the full, objectively assessed needs are met. In the context of the uncertainty over the evidence base, the contribution which this proposal would make to the district's housing supply is not sufficient to outweigh the conflict with LP Policies GBC3 and OSV2(II).

14. In arriving at that view, I also note the appellant's evidence that working papers agreed by the Council's appropriate member-constituted panels indicate that overall land availability throughout the district should include, among other things, a 10% increase in the size of existing villages, including Hadham Ford. Furthermore, sites apparently considered appropriate by the Council for development outside the built-up area, but within the CA, include one adjacent to and rear of Foxearth, immediately opposite the appeal site on Chapel Lane and to the south-east of that, between Ford Field and to the rear of Florence Cottage. However, I am not aware of the detailed considerations surrounding those suggestions and they are not sufficiently advanced to carry significant weight in my consideration of this appeal.
15. Remaining with the topic of housing need, the proposal includes a 2 bedroom house as an affordable dwelling. The appellant submitted an executed unilateral planning obligation to secure that provision. The Council has drawn attention to a number of defects in that planning obligation, including that it refers to the Housing Corporation, which no longer exists and to a Registered Social Landlord, where the correct term is now Registered Provider⁵. I also note that the obligation has been executed by the appellant company, whereas the Land Registry details submitted indicate that the owners are Maiora Investments Limited and Portafino Investments Limited. In any event, having regard to the Council's comments, the appellant suggests, and the Council agrees, that a condition would suffice. The appellant states that it would therefore withdraw the planning obligation, which it says would appear to be of no effect anyway. Except by means of an application under section 106A of the 1990 Act, a planning obligation cannot be withdrawn once completed and delivered to the Council, but in view of the points referred to, the existing obligation carries no significant weight. I nevertheless accept both parties' contention that the matter could be dealt with by a suitable condition.
16. By including 1 affordable dwelling, the proposal would comply with saved LP Policy HSG3. The provision of a unit of affordable housing is a benefit of the scheme even though, as the appellant acknowledges, the 2004 Housing Needs Survey did not identify any need for affordable housing in Little Hadham. However, this factor, either on its own or in addition to the general benefit of a modest boost to the supply of housing, is not sufficient to outweigh the conflict with LP Policies GBC3 and OSV2(II).
17. Whilst the Framework emphasises the presumption in favour of sustainable development, this does not change the statutory status of the development plan as the starting point for decision making. Indeed, the fact that local plans provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency, is included among the core planning principles set out in the Framework. In any event, both LP Policy GBC3 and OSV2 are aimed at promoting sustainable development⁶.

⁵ By virtue of the Housing and Regeneration Act 2008.

⁶ See in particular paragraphs 4.5.1 and 17.2.1 in the LP supporting text.

18. The Framework also emphasises that sustainable development includes economic, social and environmental dimensions. In terms of the effect of the proposal on the character and appearance of the area, the site lies in a rural location within the Hadham Ford CA. It is unfortunate that the Council has no CA statement, describing the significant elements of the CA. However, the open areas to the east and west of the central built-up area are included within the CA boundary. I have already found that the appeal site forms part of a significant gap between the built-up area and the cluster of buildings around Home Farm and I consider that these open areas are important as part of the attractive agricultural landscape setting of the village. Saved LP Policy BH6 specifically seeks to safeguard open spaces which materially contribute to the character or appearance of the CA.
19. Along the southern boundary of the site, there is a significant indigenous hedge on top of a grassed bank. During the summer, this feature would screen views of the proposed houses from the adjacent road and even in the winter months it would heavily filter them. However, when approaching along Chapel Lane from the higher ground to the west, these substantial new houses would be prominent, notwithstanding their staggered layout, the degree to which they would be set back from the road and the scope for additional planting on the boundaries and within the site.
20. The fact that development is visible in the public domain does not mean that it is necessarily harmful. However, this scheme would diminish the open rural setting of the built-up area of Hadham Ford as perceived from one of the 4 approaches to the village. This openness is an important element of local distinctiveness and a significant attribute of the CA. Among other things, and consistent with the Framework, Policy ENV1: expects new development to reflect local distinctiveness; requires consideration of the effect of the loss of open land on the character and appearance of the locality; and requires developments to demonstrate compatibility with the structure and layout of the surrounding area. Having regard to the provisions of the Framework concerning heritage assets, the public benefits of the scheme, including the modest boost to the housing supply and affordable housing provision, would not outweigh the harm caused.
21. For the reasons given, I conclude on the main issue that the proposal is not acceptable having regard to policies aimed at promoting sustainable development, meeting housing need and safeguarding the character and appearance of the area, which is part of the Hadham Ford CA. It would therefore conflict with saved LP Policies GBC3, OSV2(II), BH6 and ENV1.

Other matters

22. The design of the dwelling proposed for Plot 3, its window arrangement and distance from Little Sparrows would prevent any significant loss of light to that property, or overlooking of anything other than the end of its currently private large rear garden. Especially given the change in levels, there could well be a perception of overlooking at Hunters. However, actual overlooking from the first floor front window of the house on Plot 3 would be oblique and at a reasonable distance. These concerns are insufficient in themselves to justify dismissal of the appeal, but they add to objections identified under the main issue.

Overall conclusion

23. Having regard to my conclusion on the main issue and all other matters raised, I am satisfied that the appeal should be dismissed.

J A Murray

INSPECTOR



Appeal Decision

Hearing held on 19 December 2012

Site visit made on 19 December 2012

by **G M Hollington MA, BPhil, MRTPI**

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

Decision date: 23 January 2013

Appeal Ref: APP/J1915/A/12/2181713

Dalmonds Wood Farm, Mangrove Lane, Hertford, Herts., SG13 8QJ

- 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 Eamon Bourke against the decision of East Hertfordshire District Council.
 - The application Ref. 3/12/0268/FP, dated 15 February 2012, was refused by notice dated 20 July 2012.
 - The development proposed is change of use of reservoir field to allow the siting of five static holiday caravans in the form of log cabins and of a reception building, together with reshaping of an existing reservoir to allow for use for angling, associated ground works, landscaping and management of Dalmonds Wood (County Wildlife Site 71/018).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The effect of the revocation on 3 January 2013 of the East of England Regional Strategy has been considered but in the light of the facts in this case the revocation does not alter my conclusions.

Main Issues

3. The main issues are:
 - (a) the effect of the proposed development on the openness of the Green Belt;
 - (b) the effect of the proposed development on the character and appearance of the surrounding area and the visual amenities of the Green Belt; and
 - (c) 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

- (a) Openness
4. The appeal site is in the Metropolitan Green Belt as defined in the East Herts Local Plan Second Review 2007. There is no dispute between the parties that the proposal should be regarded as inappropriate development for the

purposes of the National Planning Policy Framework (the Framework) and Local Plan policy GBC1, and I agree with that position. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

5. As the Framework states, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; one of the essential characteristics of Green Belts is their openness. The appeal site is a grassed field with some trees which includes a reservoir and a smaller pond; the only structure is a small pump house adjacent to the pond and so the land is almost entirely open.
6. In addition to remodelling of the reservoir and pond, the proposed development would entail the regular spacing throughout the site of five log cabins¹, a small timber reception building and a small car park, cycle parking and refuse store. It would therefore cause a significant reduction in the site's openness.
7. My conclusion on this issue, therefore, is that the inappropriate development proposed would cause substantial harm to the Green Belt's openness and conflict with the aims of the Framework and policy GBC1.

(b) Character & Appearance and Visual Amenities

8. The appeal site is in gently undulating countryside which comprises fields and woodland with a scatter of farm buildings and dwellings. Near the site is the collection of buildings at the East Herts Equestrian Centre, with two adjacent houses and a nearby telecommunications mast. Within a wood to the east is a barn for the appellant's pig-rearing business.
9. The land in the vicinity of the site generally slopes downwards from north to south, with more pronounced falls to Dalmonds Wood and, within the site, from the reservoir to the pond. There would be little or no view of the development from the public footpath² to the north and views from the bridleway³ to the east are filtered by vegetation between that and the parallel track to Elbow Lane Farm (the equestrian centre) and other trees, hedges or planting between that and the appeal site.
10. Regardless of its public visibility or otherwise, the proposed change of use of the land and the introduction of the cabins and other development including the reception building and vehicular access and parking would harmfully change the intrinsic character of the countryside from its existing, undeveloped rural character.
11. To this would be added the visual impact, particularly arising from the presence of the cabins and the reception building. However, this would be mitigated by the appearance of the cabins and building, which would be single-storey and constructed of timber, by the limited public views and by the new planting which is proposed.

¹ They would be static caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968

² Hertford Heath FP7

³ Public restricted byway 24

12. The Caravan Club has stated it is prepared in principle to grant a certificate⁴ for five caravans to be located within the appeal site. Such caravans could each be more conspicuous than a log cabin, but they would be closely grouped within only 0.2-0.3ha of the 2.3ha site, with no reception building, and so they do not represent a "fallback position" similar to the appeal proposal.
13. I therefore conclude on this issue that, although it would have only a modest effect on the appearance and visual amenities of the Green Belt, the proposed development would harm the character of the surrounding area and, by encroaching into the countryside, it would conflict with one of the five purposes which Green Belts serve. It would not accord with the relevant aims of the Framework and policy GBC1.

(c) Whether Harm Clearly Outweighed

14. The appellant puts forward a range of material considerations which he contends amount to very special circumstances to justify permission. They can be grouped under the broad headings of meeting a need for tourist accommodation, benefitting the local economy, delivering ecological enhancements and bringing back to beneficial use a redundant reservoir. I shall consider each in turn.
15. The Framework supports sustainable rural tourism that benefits businesses, communities and visitors and which respects the character of the countryside. The *Good Practice Guide on Planning for Tourism* stresses the importance of tourism and the economic, social and environmental benefits it can bring. Local Plan policy LRC10 encourages suitable tourism proposals in appropriate locations and indicates favourable consideration will be given to suitable proposals.
16. In its report for the appellant, Tourism South East has found there is a low supply of existing self-catering accommodation within the vicinity, and high occupancy levels suggest a need for more accommodation; the East of England has been the country's fastest growing region for domestic overnight trips.
17. The appeal proposal would add to the supply of self-catering accommodation and could become a high quality countryside retreat, offering access to the countryside and pursuits such as angling (on the site), golf and horse riding (in the wider area).
18. However, these benefits could in principle be achieved by using or converting existing buildings, whereas the proposal would undermine rather than respect the character of the area to be enjoyed by visitors – the Framework's support for sustainable tourism is qualified by the need for it to respect the countryside.
19. The site is not so well located that visitors would be unlikely to be largely reliant on car use, notwithstanding the appellant's offer of transport to local train stations (which could form part of a more formal Green Travel plan). As a supporting factor, therefore, meeting the need for tourist accommodation carries modest weight.
20. It is assumed the development would have an occupancy rate of at least 60%. It would be likely to develop linkages with other businesses and its visitors

⁴ For a Club Certificated Location

- would use local services and facilities such as public houses and other leisure attractions.
21. These and the benefits of undertaking the development itself are recognised by the Council's Economic Development section and acknowledged by the local planning authority. However, the economic value to the local economy has not been quantified and at the Hearing the appellant agreed the boost to the economy would be small. I attached limited weight to this benefit in support of the proposal, given the relatively small scale of the proposed enterprise.
 22. Although earlier regarded as a beneficial form of diversification from the appellant's specialist pig breeding and rearing enterprise, the development was said at the Hearing by the appellant to be in support of the woodland rather than aiding the pig business.
 23. Dalmonds Wood, immediately south of the reservoir field and also owned by the appellant, is a County Wildlife Site (of critical natural capital) and a Planted Ancient Woodland Site. It is connected by hedgerows to other blocks of woodland which are of at least County Wildlife Site status and it includes wetland areas which are locally important as part of a wider collection of ponds.
 24. Much of the ancient woodland has been felled and replanted with pines, but there remain areas of coppice. Some of the ground flora has been heavily grazed by the appellant's pigs, which have also damaged one of the wetlands. The reservoir field is of improved grassland with some trees and an open expanse of water with minimal vegetation around it and steeply sided banks.
 25. The appeal proposal includes alterations to the reservoir by re-profiling its banks; its field would be planted with new trees, particularly along its northern margin and in the west and south-east. A management plan for this area and Dalmonds Wood would be implemented, with probable grant aid. It would include restoration of the woodland and limiting the impact of the pigs grazing; a detailed five-year programme has been devised, after which it would be reviewed.
 26. The Framework encourages the conservation and enhancement of biodiversity and among the aims of Local Plan policy ENV17 are encouraging the management of features of the landscape which are of major importance for wildlife and seeking improvements to nature conservation wherever possible.
 27. The LPA acknowledges the proposed development would generate an income towards management of the woodland which could not otherwise be afforded by the appellant, and he has submitted a section 106 unilateral undertaking which, among other matters, would ensure management in accordance with the plan and allow for monitoring by the Herts and Middlesex Wildlife Trust.
 28. Dalmonds Wood had not been managed during its previous ownership by a pharmaceutical company, but the value of the ecological enhancements is offset to some extent by the need to remedy damage caused by overgrazing since the pig business started. Nevertheless, the management plan would ensure the achievement of worthwhile enhancements (provided it were adequately tied to the other elements of the development) and is a supporting factor to which significant weight should be attached.
 29. The reservoir itself is disused, having been constructed by the pharmaceutical company to stock fish. It continues to do so, and also supports water fowl in

winter and frogs and toads in spring. To bring it back into beneficial use for fishing would be an advantage.

30. I shall now consider whether the other considerations clearly outweigh the harm by reason of inappropriateness and any other harm, so as to amount to the very special circumstances necessary to justify the development.
31. I have come to the views that the proposed development would be inappropriate and harmful to the openness, visual amenities and purposes of the Green Belt, although the harm to visual amenities would be mitigated by the nature of the proposed cabins, the limited public visibility and the proposed planting. It would also be detrimental to the area's character.
32. Of the other considerations which might weigh in favour of the development, enhancing and properly managing Dalmonds Wood would be a significant benefit which is supported by national and local policy, and it would be an advantage to make beneficial use of the reservoir. On the other hand, my view is that the need for tourist accommodation and the benefit to the local economy carry modest weight.
33. For there to be very special circumstances, the combined weight of the other considerations which support the appellant's case must clearly outweigh the harm from inappropriateness and other harm. The harm from inappropriateness is substantial and to it must be added other forms of harm. I consider the combined weight of the other considerations is not sufficient to outweigh clearly the totality of the harm. The very special circumstances to justify the development do not, therefore, exist.
34. I have taken into account all the other matters raised in the written representations, including references to appeal decisions elsewhere, but circumstances vary from site to site and each case needs to be determined on its own merits. None of the other matters outweigh the considerations which have led to my conclusions on the main issues.

G M Hollington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Miss J Orsborne, BA(Hons), DipTp, MRTPI, DMS	Jane R Orsborne Associates
Mr E Bourke	Appellant
Mr S Bourke	Appellant's father

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Chalk	Planning Officer, East Herts District Council
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INTERESTED PERSONS:

Mr J Lucas	Chairman, Broxbourne & Wormley Woods Area Conservation Society
Ms A Reay	Local resident
Ms H Clark	Local resident

DOCUMENTS

- Submitted by the appellant
- 1 Management Plan
 - 2 Extended European Protect Species Survey
 - 3 Landscape and Visual Assessment
 - 4 Report by Tourism South East
 - 5 Letter from Tourism South East, 12 January 2012
 - 6 Draft unilateral undertaking
 - 7 Unilateral undertaking



Appeal Decision

Site visit made on 15 January 2013

by **John G Millard DipArch RIBA FCIArb**

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

Decision date: 1 February 2013

Appeal Ref: APP/J1915/A/12/2180792

**Old Clay Pit, St Mary's Lane, Hertingfordbury, Hertford, Hertfordshire
SG14 2LE**

- 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 Daniel Green against the decision of East Herts Council.
 - The application ref: 3/12/0272/FP dated 17 February 2012 was refused by notice dated 18 July 2012.
 - The development proposed is alterations to and retention of the service road constructed in autumn 2010 together with associated re-grading of the deposited material.
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Decision

1. The appeal is allowed and planning permission granted for alterations to and retention of the service road constructed in autumn 2010 together with associated re-grading of the deposited material at Old Clay Pit, St Mary's Lane, Hertingfordbury, Hertford, Hertfordshire SG13 2LE in accordance with the terms of the application ref: 3/12/0272/FP dated 17 February 2012, subject to the conditions set out in the Schedule of Planning Conditions attached hereto and forming part of this decision.

Preliminary Matters

2. The appeal site comprises the southern part of a former clay quarry within the Green Belt, a little to the south of Hertingfordbury village. The extraction of clay appears to have ceased around the end of the 19th or beginning of the 20th century, from which time until about 1978 the land was used for the tipping of putrescible waste by a succession of local authorities. As a result, pockets of contamination have been identified by the appellant's geotechnical consultant.
 3. In 2010 a service road was constructed and imported material tipped without the benefit of planning permission, resulting in the Council taking enforcement proceedings. The Enforcement Notice was appealed and planning permission sought for retention of the road, with some modifications, to enable the land to be used for the rearing of livestock, mainly pigs. The appeals (Ref: APP/J1915/C/10/2143642 and APP/J1915/A/11/2149295) were dismissed and the proposal before me seeks to address the concerns of the previous appeal Inspector. Whilst I have had regard to these appeal decisions as material considerations, I
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have assessed the proposal before me on its merits and reached my decision accordingly.

Main Issues

4. In view of the position outlined above, I consider the main issues in this appeal to be, firstly, whether the proposal amounts to inappropriate development in the Green Belt for the purposes of national and local Green Belt policy and, secondly, its effect on the landscape character of the area. If the proposal is found to be inappropriate development a further issue arises, that is 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 needed to justify such development.

Reasons

5. From my review of the submitted evidence and my inspection the site and surrounding area, I find myself in full agreement with the previous appeal Inspector in relation to Green Belt issues. It was his view that the roadway had an insignificant effect on openness of the Green Belt and, being raised only slightly above the surrounding land, did not appear as an urbanising feature. He concluded that formation of the road and the associated re-grading works did not amount to inappropriate development so that no harm to the Green Belt arose from inappropriateness.
6. The alteration, re-grading and land improvement works now proposed would clearly result in only marginal changes to the contours of the land, because of which their effect on openness would be insignificant. Furthermore, as they would not conflict with any of the five purposes of including land in the Green Belt listed in paragraph 80 of the National Planning Policy Framework 2012 (the Framework), I conclude that the works would accord with national Green Belt policy objectives, as set out in Part 9 of the Framework, and with Policy GBC1 of the adopted East Herts Local Plan Second Review 2007 (LP). Therefore, the need to identify considerations that might amount to very special circumstances does not arise.
7. St Mary's Lane has a pleasant rural character, being bordered by open countryside for much of its length. There is a small cluster of mostly detached dwellings in generous plots south of its junction with Hertingfordbury Road, and the elevated Cole Green Way is carried over the lane on a former railway bridge, the visual impact of which is much softened by established foliage. Where the former clay pit comes close to the road, it is well screened by mature trees and largely unseen from the public realm. Access is by way of an unmade track and public bridleway that runs south-westwards through open countryside from St Mary's Lane, skirting the boundary of the site. Views into the site from the bridleway are largely screened by mature tree planting.
8. As no Green Belt issues arise, I consider the proposal to be acceptable in principle. However, although largely well screened from the public realm, clear views of much of the land are obtained at the entrance to the site from the public bridleway, from which vantage point the unduly wide access road, with its associated flat parking area half way along, are seen as an unsympathetic and visually intrusive engineered feature. It was noted by the previous Inspector, and is not disputed by the parties, that tipped material forming the

side slopes had been left uncovered resulting in an unfinished appearance. I was unable to see this for myself at the site visit due to lying snow but I have no reason to doubt that it remains the case.

9. The extant Enforcement Notice requires removal of the unauthorised tipping and re-grading works and restoration of the land to its state prior to autumn 2010. The appellant asserts, with some justification, that mere compliance with the Notice would leave the site as a despoiled quarry, contaminated in parts due to earlier authorised tipping by a number of local government bodies and with limited potential for economic use. The proposal, therefore, is to remodel and improve the land in order to utilise it more effectively for agricultural purposes, in connection with the appellant's existing nearby livestock rearing business. The works proposed would include a reduction in the width of the road, removal of the parking area, re-grading works, capping and topsoiling contaminated areas, grass seeding of re-graded areas and the planting of new trees and hedges.
10. From a careful examination of the submitted plans, and having visited the site, I am in no doubt that the proposal would significantly reduce the visual prominence of the roadway, whilst the re-grading of the verges, together with the seeding and planting works, would soften the road's appearance and create more natural and visually acceptable contours than would be achieved by simply removing the unauthorised deposited material. The result would be an enhancement of the rural character of the area, in line with the design and environmental quality and landscaping objectives set out in LP Policies ENV1 and ENV2 respectively. The Adopted Supplementary Planning Document – *Landscape Character Assessment* (2007) (SPD), which supports LP Policy GBC14, notes that restoration proposals for existing mineral workings should be appropriate for the landscape character of the area concerned and I am satisfied that the works proposed would achieve that objective.
11. For these reasons, and as the works would enable the land to be more effectively and appropriately used in a beneficial way for agricultural purposes, I conclude that the proposal is acceptable. It would not amount to inappropriate development in the Green Belt whilst its positive impact on the landscape character of the area would accord with the LP Policies and SPD guidance identified.
12. In reaching this conclusion I have noted the Council's concern that the importation of a further 2,000m³ of clay onto the site would harmfully impact upon the original land form. However, in terms of the overall area of the site this is a modest quantity of material which, distributed in accordance with the submitted plans, would improve the topography and give this despoiled and unrestored quarry a more natural appearance. I have also had regard to the various concerns raised by local residents but it appears that these arise mainly as a result of previous unauthorised activities on the land and are not the result of an objective assessment of the proposal now under consideration.
13. Having considered these and all other matters raised, I have found nothing that changes the balance of my decision that the appeal should be allowed and planning permission granted.
14. As I propose to allow the appeal and grant planning permission for the development, I have considered the need for conditions having regard to the

Council's suggestions and in the context of Circular 11/95 – *The Use of Conditions in Planning Permissions*. Except as required by this decision and its associated conditions, it is necessary that the development should accord with the approved plans and I shall impose a condition to that effect. In the absence of an appropriate level of detail on the submitted plans, and in the interests of preserving the visual amenity of the area, landscaping conditions are required whilst, to protect the ecology of the site, the suggested condition seeking to protect breeding birds is also necessary.

15. As the importation of clay will involve a significant number of lorry movements, and to minimise the impact of such movements on the local road network, a condition requiring the submission for approval of a construction management plan is needed whilst, to ensure that no conflict with national and local Green Belt policy arises, I shall impose the suggested condition restricting the use of the land to agriculture. I shall amend the Council's suggested wording where necessary to accord with Circular 11/95 advice.

John G Millard

INSPECTOR

SCHEDULE OF PLANNING CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2 Except as required by this permission and its associated conditions, the development hereby permitted shall not be carried out otherwise than in full accordance with the approved drawings numbered 287.1.2A, 287.14 and 287.113B.
- 3 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. Details to be submitted shall include (a) means of enclosure, (b) hard surfacing materials, (c) planting plans and schedules, including details of species, sizes, planting centres, numbers and percentage mix, (d) written specifications, including cultivation and other operations associated with plant and grass establishment and (e) implementation timetable.
- 4 All hard and soft landscape works shall be carried out in accordance with the approved details and shall be completed within the first planting and seeding season following commencement of the development, in accordance with the approved timetable. Any trees, shrubs or hedging plants planted in compliance with this condition which are removed, die or become seriously damaged or diseased within 5 years of planting shall be replaced with trees, shrubs or hedging plants of the same size and species within the next planting season.
- 5 No works shall be carried out on the site at any time between the 1st day of March and the 30th day of August (inclusive) in any year unless a qualified ecologist has, on the day immediately preceding commencement, first undertaken a visual survey to establish the presence or absence of nesting birds in the immediate area. A record of the results of the observations made shall be submitted in writing to the local planning authority within 24 hours and any mitigation measures required shall be implemented in their entirety whilst the works are in progress.
- 6 No material shall be imported onto the site until a construction management plan specifying the number and routes of daily lorry movements associated with the delivery and storage of such material has been submitted to and approved in writing by the local planning authority. The work shall proceed as approved.
- 7 The modified access road and associated parking or turning areas hereby permitted shall be used solely for the purposes of agriculture and for no other purpose.

END OF SCHEDULE OF PLANNING CONDITIONS



Appeal Decision

Site visit made on 7 January 2013

by **Tim Wood BA(Hons) BTP MRTPI**

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

Decision date: 28 January 2013

Appeal Ref: APP/J1915/A/12/2178696

Bartle Frere and Edmonstone Boarding Houses, Haileybury and Imperial Service College, Hertford, Herts SG13 7NU

- 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 Haileybury and Imperial Service College against the decision of East Hertfordshire District Council.
 - The application Ref 3/12/0688/FP, dated 19 April 2012, was refused by notice dated 21 June 2012.
 - The development proposed is single storey extensions to Bartle Frere and Edmonstone Boarding Houses south block.
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Decision

1. The appeal is allowed and planning permission is granted for single storey extensions to Bartle Frere and Edmonstone Boarding Houses south block at Haileybury and Imperial Service College, Hertford, Herts SG13 7NU in accordance with the terms of the application, Ref 3/12/0688/FP, dated 19 April 2012, 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 and details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 4334/003A, 4334/004A, 4334/005A, 4334/006A, 4334/007, 4334/008, 4334/009, 4334/010, 4334/011, 4334/012, 4334/013, A.4334/014.
 - 4) Before the development commences detailed drawings of the new doors and windows at a scale of not less than 1:20 shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with those details.

Preliminary Matter

2. Drawing number 4334/004A was submitted with the appeal, but does not appear on the list of drawings on the Council's decision letter. Having agreed with the Council that its contents are entirely consistent with the other

drawings, and actually shows in larger detail matters shown on other drawings, I shall include it in my consideration of the appeal.

Main Issue

3. The main issue in this appeal is the effects of the proposal on the character of the existing building and on the setting of adjacent listed buildings.

Reasons

4. The proposal relates to these 2 relatively modern, juxtaposed boarding houses; they are of the same design and form a mirror image of each other. The appeal site is identified as a Major Developed Site in the Green Belt. The extensions proposed include ones to the inner courtyard and ones to the outer, partly enclosed areas. The Council state that the extensions proposed to the inner courtyard are acceptable; taking account of my observations at my site visit, I agree with this conclusion.
5. The other proposed extensions would project into areas which are largely enclosed by the existing 2 storey buildings. They would be set close to the angle of the junction between 2 parts of the building and of a modest size. The proposed pitched roofs would be built with recessed sections which would accommodate the existing first floor windows; a feature of the existing building in the inner courtyard.
6. The design of the extensions would reflect that of the building with the roof pitch and window designs being the same. The proposal would be set away from the existing corner windows which are an attractive feature of the building. From the surrounding area the proposed extensions would be seen against the back-drop of the existing building and would not appear prominent or overbearing but would blend well with the scale and form of the building.
7. In relation to the effects on the listed buildings on the site, it would only be possible to see one of the extensions from the listed buildings and their immediate surroundings. There is some considerable distance between the proposal and the listed buildings and some mature landscaping, including tall trees, which forms a significant visual break between the buildings.
8. The successful integration of the extensions with the existing boarding houses and the considerable separation from the listed buildings and acceptable appearance leads me to conclude that the proposal would preserve the setting of the listed buildings and have no unacceptable effects on the boarding houses. The proposal represents limited infilling of an acceptable nature, having no detrimental effects on the openness or aims of the Green Belt. Therefore, the proposal is consistent with the aims of Policies GBC1, GBC4, ENV1 and ENV4 of the East Herts Local Plan and with the aims of the National Planning Policy Framework.

Conditions

9. I have considered the conditions suggested by the parties having regard to the advice in Circular 11/95 '*The Use of Conditions in Planning Permissions*'. In order to ensure that the proposed extensions have an acceptable effect on the host building and its surroundings it is necessary to include conditions which ensure suitable external materials and that the doors and windows match the detail of the existing building. A condition requiring the proposal to be

constructed in accordance with the approved drawings is also necessary for the sake of clarity and proper planning.

Conclusion

10. Account has been taken of all other matters referred to in the representations, but for the reasons set out above it is concluded that the proposal would have a satisfactory effect on the existing boarding houses, the area in general and the setting of the listed buildings on the school site. Therefore, the appeal is allowed.

S T Wood

INSPECTOR