



Appeal Decision

Site visit made on 30th April 2013

by Clive Whitehouse BA(Hons) MCD MRTPI

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

Decision date: 16 May 2013

Appeal Ref: APP/J1915/A/12/2174868

**Unit 4A Hadham Industrial Estate, Church End, Little Hadham,
Hertfordshire SG11 2DY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Collins against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/1881/FP, dated 26th October 2011, was refused by notice dated 26th March 2012.
 - The development proposed is the addition of a sui-generis use to an existing B1, B2 and B8 use – change of use of the unit for hot and cold food production/ hot and cold food delivery (sui-generis) plus B1, B2 and B8 (retrospective). Extract flue located on roof and extract flue from mechanically operated hood over gas cooker (including air filtration and neutralisation) (retrospective).
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the business is sustainably located, having particular regard to transport considerations and the objectives of the National Planning Policy Framework (NPPF).

Reasons

Whether in a Sustainable Location

3. The business trades as "Masala Express" from a small unit (about 70sq.m) in a converted farm building. It consists of a kitchen used for preparing Indian-style foods, and has been in operation since early 2011. According to the supplementary planning and access statement submitted with the application, the business has two main sources of income. One involves the preparation of sauces and meals which are supplied on a wholesale basis to restaurants in towns in the region. The other is a home delivery service of hot meals. There is a small counter in the building where customers calling at the premises can buy food to take away. Figures supplied by the business suggest that in 2011 "trade" custom generated about 74% of turnover; home delivery about 24%, and customer collection about 2%.
4. The unit is within a small industrial estate that has been developed within a range of former agricultural buildings at Church End Farm. The farm is located in a rural area at the end of a cul-de-sac off the A120 road. The nearest town

is Bishops Stortford, the centre of which is about 5km to the east, whilst small villages are scattered across the surrounding rural area.

5. The business occupies a sub-divided part of a building for which planning permission was granted in 2011 for a change of use to B1 (business), B2 (general industrial) and B8 (storage and distribution).
6. The Council has found it difficult to categorise the business by reference to the Use Classes Order, but has concluded that the mixed character of the business does not fit within any use class and, accordingly, regards it as a sui-generis use (singular use) for which planning permission is required.
7. In the Council's assessment, the delivery of prepared foods to other restaurants would, by itself, fall within the scope of the Class B1/B2 planning permission for the premises. The issue therefore focuses on the home delivery of hot food. The delivery area includes Bishops Stortford and villages in the rural area extending as far as the small town of Buntingford, about 15km to the north west. Orders are taken by telephone or online and the business aims to deliver within 45 minutes. Some deliveries are combined in a single round trip, but given the 45 minute delivery time and the large rural area served, the operation must inevitably generate an unusually high mileage by delivery vehicle, compared to a home delivery service based in a population centre.
8. The Council refers to a 2004 appeal decision concerning a similar hot food delivery service operating from converted rural premises in another part of the County. In that case there was no claimed trade business, and the Inspector concluded that that the operation fell within what is now the Class A5 use class for the sale of hot food for consumption off the premises, notwithstanding that few people called at the premises. He concluded that the use resulted in unnecessary traffic generation in the rural area, contrary to the sustainability objectives of the planning policy guidance then in place.
9. In the present case, I also conclude that the home delivery service, on its own, would be a Class A5 use. It is part of a singular use only because of its combination with the restaurant trade business.
10. Planning permission was refused shortly before the National Planning Policy Framework (NPPF) was issued, although sustainable development was a core principle of previous national guidance. Paragraph 14 of the NPPF states that the presumption in favour of sustainable development is at the heart of the planning system. Paragraph 28 supports sustainable growth and expansion of all types of business and enterprise in rural areas. Reducing the need to travel is an important sustainable development objective. The Council's local plan includes policy SD2, which seeks to concentrate development in the main settlements.
11. A nearby resident and the Parish Council cast doubt on the claimed balance between the trade and home delivery elements of the business, and regard it as primarily a Class A5 use. The general set up of the unit, with a customer counter, gives that impression, even though relatively few people collect their orders from the premises. Also, the hours of business are between 16:30 and 22:00 hours on Tuesdays to Sundays, which is when home deliveries are offered. The figures given by the business in support of the application relate to the initial trading period in 2011, and the Council's delegated report

expresses concerns that the business may be developing towards a greater emphasis on the home delivery market.

12. I conclude on the main issue that the home delivery element of the business requires an excessive amount of vehicular use and is not in a sustainable location, contrary to the objectives of the NPPF.

Other Matters

13. Deliveries take place throughout the evenings up to 22:00 hours and on Sundays, contrary to a planning condition on the existing B1/B2/B8 planning permission for the premises. That permission restricts vehicle movements generally to between 07:00 and 20:00 hours with no traffic on Sundays. I understand that other businesses occupying units at Church End Farm are similarly restricted. There are a small number of houses in the hamlet of Church End along the approach road to the farm. The Masala Express business extends activity later into the evenings and on Sundays, when the level of activity is otherwise reduced and this has a small adverse effect on the amenity of nearby residents. This consideration adds some weight to my conclusion on the main issue.
14. The Council considers that the fume extract flues on the building are acceptable in visual terms in the context of the industrial units. One objection refers to unpleasant cooking smells, but given the sparse distribution of houses, that is not a main issue in this case.
15. Having regard to all other matters raised, I conclude that the appeal should fail.

C Whitehouse

INSPECTOR



Appeal Decision

Hearing held on 19 February 2013

Site visit made on 19 February 2013

by **I Radcliffe BSc(Hons) MCIEH DMS**

Decision date: 16 May 2013

Appeal Ref: APP/J1915/A/12/2183124

Westley Wood Farmhouse, Churchfield Road, Tewin, Welwyn AL6 0JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 and comprises 2 parts. Part A is against a refusal to grant planning permission. Part B is against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Vaughan Williams against the decision of East Hertfordshire District Council.
- The application Ref 3/12/0276/FP, dated 17 February 2012, was refused by notice dated 20 June 2012.

In relation to Part A:

- the development proposed is continued use of the 3 en-suite bedrooms for Bed and Breakfast accommodation.

In relation to Part B;

- the application sought planning permission for a detached garage and amended access to site without complying with a condition attached to planning permission Ref 3/99/1693/FP, dated 14 December 1999;
 - the condition in dispute is No 9 which states that: The garages shall be used for the housing of private vehicles in connection with the adjacent agricultural workers dwelling (approved under ref 3/83/0774/FP) and not as additional living accommodation or for any commercial activity;
 - the reasons given for the condition is to ensure the continued provision of off street parking facilities in the interests of highway safety and to safeguard the amenities of adjoining occupiers.
-

Decision

1. The appeal is dismissed insofar as it relates to Part A in relation to the continued use of the 3 en-suite bedrooms for Bed and Breakfast accommodation. The appeal is allowed insofar as it relates Part B with regard to the grant of planning permission for the development of land carried out without complying with a condition subject to which a previous planning permission was granted. Accordingly, planning permission is granted for a detached garage and amended access to site at Westley Wood Farm House, Churchfield Road, Tewin, Welwyn AL6 0JB in accordance with application Ref 3/12/0276/FP, made on 17 February 2012 without compliance with condition number 9 previously imposed on planning permission Ref 3/99/1693/FP, dated 14 December 1999, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Main Issues

Part A

2. The main issue is the effect of the change of use of 3 bedrooms for Bed and Breakfast accommodation on the use of the farmhouse as an agricultural worker's dwelling.

Part B

3. The main issue is whether having regard to Circular 11/95 '*The Use of Conditions in Planning Permissions*' it is reasonable and necessary to restrict the use of the garage provided in relation to the farmhouse to the storage of vehicles.

Reasons

Part A – Bed and Breakfast use of the agricultural worker's dwelling

4. A core principle of the National Planning Policy Framework (the Framework) and previous national policy is that the intrinsic character and beauty of the countryside should be recognised in decision taking. In furtherance of this principle one of the few instances in which isolated new homes in the countryside and Green Belt is supported by national policy is when there is an essential need for an agricultural worker to live by their place of work. In this regard policies GBC1 and GBC6 of the East Herts Local Plan Second Review 2007 ('Local Plan') are consistent with national policy. In order to ensure that an agricultural worker dwelling for which planning permission has been granted is used for that purpose a condition restricting occupancy to such workers is attached. This is what happened when planning permission was granted for Westley Wood Farm House in 1983 under the policies of a previous development plan. Following its construction it was occupied on this basis.
5. Planning permission for a detached garage was granted in 1999 and a 2 storey side extension with planning consent was added to the house a few years later. An Inspector dealing with an enforcement appeal in 2010 (ref APP/J1915/C/10/2130133) found that the house and garage had been converted to provide 10 en-suite bedrooms in relation to the hotel. As a result he dismissed the appeal and upheld the enforcement notice requiring that the unauthorised use of the land and building for accommodation ancillary to the business of the nearby Tewin Bury Farm Hotel ceased. Since then the house has been reconfigured to provide 5 en-suite bedrooms, a kitchen / diner and a lounge. Three of these bedrooms are offered on a bed and breakfast basis to paying guests. The bed and breakfast business is separate to Tewin Bury Farm Hotel. 3 of the appellants' sons now live on the appeal site, (2 of whom are agricultural workers). 2 sons sleep in bedrooms within the farmhouse. The third sleeps in an en suite bedroom in the garage.
6. Although 2 of the sons are agricultural workers the only private space they have are their lockable en-suite bedrooms and a small office. The kitchen diner and lounge are in shared use with the bed and breakfast guests. As a matter of fact and degree I concur with the Council that the use of 3 of the 5 bedrooms within the house for a bed and breakfast business, with no private

communal living space for residential use, means that the bed and breakfast use is not ancillary to the residential use of the building but is the main use.

7. As a consequence, the farmhouse no longer provides living accommodation that can reasonably be considered to constitute an agricultural worker's dwelling suitable for a worker and his or her family. This is the purpose for which planning permission for the farmhouse was originally granted as an exception to the normal policy of restraint within the countryside and Green Belt. As a result the development is in breach of policy GBC1 of the Local Plan and condition 4 of the permission for the house (reference 3/83/0774/FP).
8. Reference has been made to policy LRC10 of the Local Plan which is supportive of proposals for visitor accommodation in the District. However, the policies of the development plan should be read as a whole and not in isolation. Where an agricultural occupancy condition exists policy GBC6 of the Local Plan advises that only in the absence in the first instance of a need for housing for other rural based workers and then in the absence of a need for affordable housing will alternative main uses such as visitor accommodation be considered. The absence of such housing needs has not been demonstrated.
9. If the number of bedrooms in bed and breakfast use was reduced to 2 the majority of the bedrooms would be in residential use. It is common ground that use of less than half the bedrooms for bed and breakfast purposes would mean that this activity would be ancillary to the residential use of the house and planning permission would not be required. I agree with that assessment. If the appeal in relation to Part A was dismissed such a reduction may well occur. Be that as it may, as this would result in additional private residential living space, thereby improving the usability of the building as a house, this is a fallback position to which I attach little weight in favour of the appeal.
10. The continued use of the 3 bedrooms as bed and breakfast accommodation would make efficient economic use of the building until the appellant retires. At that point he intends to end the bed and breakfast business and live in the Farmhouse. On this basis he has suggested that permission for use of the bedrooms for bed and breakfast accommodation could be granted for up to 3 years. Nevertheless, as paragraph 109 of Circular 11/95 *'The Use of Conditions in Planning Permissions'* makes clear, temporary permissions should only be used in certain circumstances. In this case as the development would be contrary to the development plan a temporary permission would not be appropriate.

Part B - Garage Use

11. At present the garage serving the farmhouse is used as a gym with a sauna and bathroom on the ground floor and an en suite bedroom in the roof space. Condition 9 of the planning permission (ref 3/99/1693/FP) for the garage prevents it from being used for any purpose other than the storage of private vehicles in relation to the farmhouse. The application seeks removal of condition 9 to enable the garage to be continued to be used for ancillary residential purposes.
12. It was agreed at the hearing that the farmhouse was isolated and that it had ample onsite parking. As a consequence, the Council conceded that on road parking that could endanger highway safety, or activities that could harm the

amenities of neighbours, were unlikely to occur if the garage was used for purposes other than the storage of cars. As a result, the Council agreed that it was not reasonable or necessary to retain the condition for the reasons it was originally attached. I concur with that assessment. Allowing the garage to be used for more than the storage of vehicles would in my view have the benefit of adding to the versatility and attractiveness of the house as a residence.

13. Given that the gym and sauna located on the ground floor of the garage is small and located some distance from the hotel it is unlikely to be used by hotel guests. It is therefore not reasonable or necessary to prevent use of this facility by hotel guests by condition in order to safeguard the use of this building by occupiers of the farmhouse and their guests.

Conclusion

14. For the reason given above, and having regard to all other matters raised, including the adverse effects of not allowing the bed and breakfast change of use on the appellant's business interests, the appeal in relation to Part A is dismissed whilst the appeal in relation to Part B is allowed.

Ian Radcliffe

Inspector

APPEARANCES

FOR THE APPELLANT:

Jane Orsborn
BA Hons Dip TP MRTPI DMS

Associated with Prospect Planning

Vaughan Williams

Appellant

M. J. Cook
RIBA

Architect

Ivor Williams

Relative of the appellant

FOR THE LOCAL PLANNING AUTHORITY:

Jill Stevens
MA BA MRTPI Chartered MCIPD

East Hertfordshire District Council
Planning Officer

Christopher Barnes

East Hertfordshire District Council
Planning Enforcement Officer

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Letter of notification detailing the time, date and location of the hearing together with the list of persons notified.
- 2 Policies TR7, ENV1 and LRC10 of the East Herts Local Plan Second Review 2007.



Appeal Decision

Site visit made on 30th April 2013

by Clive Whitehouse BA(Hons) MCD MRTPI

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

Decision date: 16 May 2013

Appeal Ref: APP/J1915/X/12/2182871

6 Trinity Close, Bishops Stortford, Hertfordshire CM23 3HS

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr C Barrows against the decision of East Hertfordshire District Council.
 - The application Ref 3/12/0584/CL, dated 4th April 2012, was refused by notice dated 1st June 2012.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is the installation of solar panels on the roof of the dwellinghouse.
-

Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing operation which is considered to be lawful.

Reasons

2. The installation of solar panels on the roof of a dwellinghouse is permitted development by virtue Part 40, Class A of the Town and Country Planning (General Permitted Development) Order 1995, as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2011 (SI 2056) (the GPDO).
3. Permitted development is subject to certain exclusions and conditions. The exclusions under part A.1.(a) to (e) are met or do not apply in this case.
4. The matter in contention is the interpretation of conditions A.2.(a) and (b) of Part 40, Class A. Condition A.2.(a) states that "*solar PV or solar thermal equipment shall, so far as practicable, be sited so as to minimise its effect on the external appearance of the building*". Condition A.2.(b) states that "*solar PV or solar thermal equipment shall, so far as practicable, be sited so as to minimise its effect on the amenity of the area*".
5. The solar panels occupy most of the front roof slope of a terraced house. The Council considers that neither condition has been met, since there has been no attempt to minimise the effect on the external appearance of the house or the effect on the visual amenity of the area.

6. To function well, solar panels need to face at an angle within 90 degrees of south. The roof slope in this case faces west-south-west, which is within the required angle. The only other roof slope on the terraced house faces east-north-east, where the solar panels would not function well.
7. Although the front roof slope is prominent in the immediate street scene, the geography of the area is such that the rear roof slope is more widely visible from the direction of the town centre, and the appellant claims that there is no practicable alternative siting that would minimise the visual effects. The appellant therefore contends that the conditions are satisfied and planning permission is not required for the installation.
8. The conditions refer to the siting of the installation and the appellant contends that this does not limit the scale. Reference is made to an appeal decision (Ref: APP/Q1255/X/10/2121248) where the interpretation of condition A.1.(a) was at issue. That decision was made in the context of an earlier amendment to the GPDO, but the same condition applied. That Inspector took the view that *"a smaller array would have a lesser effect, but that could be said of any installation; condition (a) is concerned with siting, not size. Had Parliament intended to impose a size limitation it would have been a simple matter to do so"*.
9. It is also relevant that planning permission has recently been granted on appeal for a smaller installation of solar panels on the front roof slope of a nearby terraced house at No.16 Trinity Close, which is in a very similar position to the present appeal property (Ref: APP/J1915/D/12/2177194). The Inspector in that case considered the appeal under section 78 on its planning merits, having regard to the effect on the Conservation Area, but was not required to make a determination as to whether or not planning permission was necessary.
10. For the above reasons it is considered that the installation does not conflict with conditions A.2.(a) and (b) of Part 40, Class A of the GPDO. It is concluded that the Council's decision to refuse the application was not well founded.

C Whitehouse

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 4th April 2012 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The installation is permitted development by virtue Part 40, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO), as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2011 (SI 2056).

Signed

C Whitehouse

Inspector

Date 16.05.2013

Reference: APP/J1915/X/12/2182871

First Schedule

The installation of solar panels on the front roof slope of the house.

Second Schedule

Land at 6 Trinity Close, Bishops Stortford, Hertfordshire CM23 3HS

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.



Appeal Decision

Site visit made on 3 May 2013

by C Thorby MRTPI IHBC

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

Decision date: 30 May 2013

Appeal Ref: APP/J1915/H/12/2185301

**40m South of Junction with Ford Street, Station Road, Braughing, Ware,
SG11 2PN**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mrs Sandra Hatcher against the decision of East Hertfordshire District Council.
 - The application Ref 3/12/0934/AD, dated 6 June 2012, was refused by notice dated 16 August 2012.
 - The advertisement proposed is the retention of an advertisement board.
-

Decision

1. The appeal is dismissed.

Reasons

2. The main issue in this case is the effect of the appeal sign on the visual amenity of the area, having regard to the character and appearance of the Braughing Conservation Area.
3. The conservation area mainly encompasses the village. However, it is made up of historic parts of the area including some of the open, undeveloped land and this contributes to the rural character of the land at the entrance to the village.
4. The sign has been attached to a post and rail fence forming the boundary to an open field within the conservation area. Although it is only 1 metre square and not illuminated, it is adjacent to the public highway and is highly visible. It is an uncharacteristic feature of the rural landscape detracting from its character and eroding its contribution to the historic village. The proposed signs would therefore fail to preserve the character and appearance of the Braughing Conservation Area.
5. Although the appellants suggest that the purpose of the sign is to direct visitors to the Axe and Compass public house it advertises, this is not immediately obvious from its wording. It is mainly a promotional sign with little information on how to get to the pub. The benefits in this regard are limited and would not justify the sign.
6. Account has been taken of the relevant local policies as a material consideration (including the revocation of the Regional Strategy). However, powers under the regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material

factors. The Council's policies have not therefore, by themselves, been decisive.

7. In conclusion, the negative impact of the advertisement board on the character and appearance of the Braughing Conservation Area would be harmful to the visual amenity of the area. The appeal is therefore dismissed.

Christine Thorby

INSPECTOR



Appeal Decision

Site visit made on 4 March 2013

by Anne Napier-Derere BA(Hons) MRTPI AIEMA

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

Decision date: 15 May 2013

Appeal Ref: APP/J1915/A/12/2187634
Arrowhead, North Road, Hertford SG14 1NE

- 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 Vincent Teo (Thinklogic Ltd) against the decision of East Hertfordshire District Council.
 - The application Ref 3/12/1283/FP, dated 27 July 2012, was refused by notice dated 10 October 2012.
 - The development proposed is demolition of the existing dwelling and outbuildings and erection of 2 No. detached houses, associated access road and landscaping.
-

Decision

1. The appeal is dismissed.

Application for costs

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

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposal on the character and appearance of the area, including its effect on trees and hedges;
 - Whether the proposal would provide for safe and suitable access to the site for all people, including appropriate parking and turning provision; and
 - The effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to privacy.

Reasons

Character and appearance

4. The appeal site would be accessed off North Road, which has a mixed character, but is set back a considerable distance from it in a predominantly residential area. Unconventional access arrangements, the nature of the Camps Hill footpath and the mature trees and hedges within the area, result in the existing single-storey dwelling on the appeal site and the two neighbouring dwellings, Camps Hill Bungalow and The Knoll, being separated physically and visually from the two-storey semi-detached and terraced houses around them. As a consequence these three dwellings appear as a small group of properties, distinct in character and appearance from the wider development around the

site. Although some views of the proposal would be possible from North Road, the trees and hedges and the site's location would limit longer distance views from most directions. As a result, the development would have a close visual relationship with its immediate neighbours and would be mainly seen in that context.

5. The design of the two appeal dwellings would follow the contemporary style of the approved residential scheme adjacent to the site. Given the mix of designs within the locality, the use of a modern approach in this location would not be discordant. The density of development proposed, in terms of dwellings per hectare, would not be excessive and the proposal would provide private amenity space for each house. The amount of space proposed would be greater than on some other sites nearby and appropriate in size to meet the needs of their future occupiers.
6. However, the main part of the site is an irregular, roughly triangular shape. Due to the scale and layout of development proposed and the configuration of the site, the proposed dwellings would be located close to the site boundaries. The L-shaped form of the design and use of different materials, design features and roof forms would help to break-up the overall mass and bulk of the buildings. However, from the evidence before me, the mass, scale and height of the proposed dwellings would nonetheless be significantly greater than that of their immediate neighbours, Camps Hill Bungalow and The Knoll.
7. Notwithstanding the different levels within the area, the lack of uniformity in design and the higher ridge heights of dwellings further from the site, the scale, mass, height and layout of development proposed would result in a dominant and visually cramped form of development, which would be poorly related to these neighbouring dwellings. Due to the characteristics of the appeal site and the close relationship between it and its immediate neighbours, the impact of this would be materially harmful to the character and appearance of the area.
8. Although the Council has expressed concern about the impact of the proposal on mature landscaping on the site, at the time of my visit, this appeared to exist largely on the site boundaries. The appellant considers that some of the trees within the area show signs of being over-mature and lack management. However, there is no precise evidence of this and, whilst not specifically protected, the trees and hedges on or near the site make a positive contribution to the landscaped character and appearance of the immediate area. Consequently, I consider that their loss would be materially detrimental.
9. The submitted details indicate that the proposal would retain the existing trees and hedges along the boundary of the site with the Camps Hill footpath. However, due to the proximity of the development to the site boundaries and in the absence of compelling evidence indicating otherwise, I am not persuaded that it has been satisfactorily demonstrated that the long-term retention of these trees and hedges would be a realistic proposition. This adds weight to my concerns about the impact of the scheme and, furthermore, I am not satisfied that this concern could be adequately addressed by an appropriate condition.
10. The shared area for parking and turning would be restricted in size. However, given its proposed siting, the wider visual impact of this would be limited. Notwithstanding this, the constrained nature of this part of the site reinforces

my concerns about the proposal's congested layout relative to the scale of the development proposed and the configuration of the site.

11. For the above reasons, therefore, I conclude that the proposal would be materially harmful to the character and appearance of the area. It would thus not be in accordance with the *East Herts Local Plan Second Review 2007* (LP) policy HSG7, to require proposals for replacement dwellings and infill development to be well sited in relation to the remaining surrounding buildings and not appear obtrusive or over intensive and have a design that complements the character of the local built environment and the local natural surroundings, including hedging.
12. It would also conflict with LP policy ENV1, to achieve a high standard of design and layout for all development proposals, reflecting local distinctiveness and relating well to the massing and height of adjacent buildings and the surrounding townscape. I am not satisfied that it would meet the aims of LP policies ENV2, to retain and enhance existing landscape features and ENV11, to ensure the maximum retention of hedgerows and trees. The proposal would also not meet the aims of paragraph 17 of the National Planning Policy Framework (the Framework), to achieve a high quality design and take account of the different roles and character of different areas.

Access, parking and turning

13. No direct access is proposed from the site to the adjacent Camps Hill footpath and the proposal would be served by a long access drive stretching back from North Road towards the main part of the site. I recognise that the use of this drive would provide a more direct link with the nearby railway station. However, in my judgement, the use of the adjacent public footpath would provide more direct and, due to the more gradual inclines involved, potentially more convenient access to other areas of the town. Consequently, the lack of access onto this path would unacceptably constrain the choices of future occupiers of the proposed dwellings.
14. As a result and despite the location of the site close to local services and facilities, I consider that it has not been adequately demonstrated that the layout proposed would provide for suitable pedestrian access to the site. Accordingly, the layout of the proposal would not reinforce local connections around the site and would be very likely to discourage more sustainable travel patterns, resulting in a form of development that would not meet the aims of the Framework in this regard.
15. It has been suggested by the appellant that this concern could be addressed by the imposition of a condition requiring pedestrian access links to be provided to the Camps Hill footpath for the two dwellings proposed. I am satisfied that it would be possible to provide access points onto the path, by utilising the existing points of access onto the site. However, in the absence of details to demonstrate that this would be achievable without compromising the site layout and the living conditions of the future occupiers, I consider that it would not be appropriate to address this issue in this way.
16. The layout proposed indicates that the rear elevation of Plot 6 and the side and rear elevations of Plot 7 would overlook the footpath, with private garden areas in between. This would therefore provide the potential for surveillance of this footpath by future occupiers of the proposal. However, I am also mindful that

the difference in levels between the path and the site could also lead to pressure for enhanced boundary screening of the garden areas, thus limiting the surveillance possible. In view of this and notwithstanding the existing situation, I am not satisfied that the proposal would result in an appropriately compatible relationship with the adjacent footpath which, coupled with the lack of an effective connection to it, also counts against the scheme.

17. Concerns have been expressed about the extent of parking and turning areas proposed to serve the development. From the evidence submitted, two garage parking spaces are proposed to serve each four-bedroom dwelling. The Council does not dispute that a similar level of parking provision has been considered acceptable on the adjacent site. Evidence has also been provided with the appeal to demonstrate that it would be possible for vehicles to turn on site and it has been suggested that the use of a vehicle turntable would further aid manoeuvres.
18. Given the constrained nature of the site, I consider that the use of such a device would facilitate turning movements for Plot 7. Furthermore, given the nature of North Road, which is a busy main road and the length and topography of the access drive, I consider that it would be materially harmful to highway safety if vehicles were not able to enter and leave the site in a forward gear. Although I am not persuaded that the reliance on a mechanical device to aid such manoeuvres would be an acceptable long-term solution to this issue, the tracking diagram demonstrates that turning movements would be possible, if not particularly easy, without the use of the turntable. As such, I consider that the parking and turning facilities proposed to serve the development would not be unacceptable.
19. However, this does not address the other harm identified and, in this respect, I conclude that the proposal would not provide for suitable pedestrian access to the site. It would therefore be contrary to LP policy ENV1, which requires all development proposals to demonstrate compatibility with the structure and layout of the surrounding area, as well as effective connection with existing routes and spaces. It would also not meet the aims of paragraph 32 of the Framework, to achieve a safe and suitable access to the site for all people and paragraph 69, to achieve safe and accessible environments.
20. I also consider that the proposal would not meet the recommendations contained in the design advice 'Building for Life 12' in respect of connections, particularly where it encourages integration with the existing neighbourhood and the creation of a more walkable neighbourhood. Although referring in part to the creation of new routes, the guidance is also applicable to the relationship of proposals with existing development and encourages consideration of the edge of development sites. It advises that connections should be, amongst other things, well overlooked and, in respect of pedestrian only routes, should pass in front of people's homes rather than to the rear of them. Whilst not part of the development plan, this guidance has been prepared for use nationally and is endorsed by government. It is therefore appropriate for me to have regard to it.

Living conditions

21. The rear elevation of Plot 7 would be close to the shared boundary with The Knoll and its front garden. Although this garden is largely enclosed and screened from views within the appeal site, it is also located adjacent to the

Camps Hill footpath and clear views into the garden from the footpath are possible. These views are likely to be relatively fleeting ones from pedestrians passing by at ground level and the impact of the overlooking from two levels of windows on the rear elevation of the proposal on the privacy of the occupiers of The Knoll would be very different. However, it would nonetheless affect a part of the neighbouring site which is currently more publicly visible. As a result, whilst the proposal would have an impact in this respect, I consider that it would not be sufficiently harmful to find against the scheme.

22. I have also considered concerns raised about the potential impact of the scheme on the occupiers of Camps Hill Bungalow and the dwellings to the south of the site. However, given the respective distances involved, the siting and orientation of the proposed and neighbouring dwellings, together with the lack of windows on the side elevation of Camps Hill Bungalow, I consider that the scheme would not be unacceptable in terms of loss of privacy to these occupiers. Furthermore, for similar reasons, it would also not be unacceptably overbearing or lead to a harmful loss of outlook for these occupiers or those of The Knoll.
23. I therefore conclude that that the proposal would have an acceptable impact on the living conditions of the neighbouring occupiers. It would therefore be in accordance with LP policy ENV1, which requires all development proposals to respect the amenity of occupiers of neighbouring buildings, ensuring that their environments are not harmed by inadequate privacy. It would also meet the aims of paragraph 17 of the Framework, to achieve a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

24. My attention has been drawn to the planning history of the site and the previous refusal of outline permission for two dwellings in 2005. I do not have full details of this scheme and, since that decision, there have been material changes in circumstances, such as the development of the adjacent site and changes to national policy. It is therefore appropriate for me to accord only very limited weight to this previous decision. In any event, I have, of course, considered the appeal proposal afresh, in the light of all representations made.
25. It has been drawn to my attention that the rear boundaries of some dwellings in the vicinity of the site back onto North Road. However, unlike with the appeal site, the dwellings on the north-east side of North Road are separated from the carriageway of that main road by a wide tree-lined verge and footway and the dwellings in Royston Close are raised considerably above the level of the road. Consequently, I consider that these situations are not directly comparable with the appeal proposal.
26. The Council has not challenged the appellant's assessment that there is not a 5 year supply of housing land within the District. In this case, although the appeal proposal would add to the local housing stock, the harm that would be caused by it to the character and appearance of the area and in relation to access would significantly and demonstrably outweigh this benefit. In reaching this conclusion I have borne in mind paragraphs 47-49 of the Framework and its guidance in paragraph 14.
27. As well as adding to the local housing stock, I acknowledge that the site is located within an existing settlement, would provide for a more efficient use of

land and would not adversely affect the living conditions of the neighbouring occupiers. These are benefits of the scheme that weigh in its favour.

28. However, paragraphs 6-9 of the Framework indicate that 'sustainability' should not be interpreted narrowly. Elements of sustainable development cannot be undertaken in isolation but should be sought jointly and simultaneously. Sustainable development also includes 'seeking positive improvements in the quality of the built and natural environment, as well as in people's quality of life'. I consider that the benefits of the appeal scheme would not outweigh the harm identified and, as such, the proposal would not achieve a sustainable development of the site.

Conclusions

29. For the above reasons and having regard to all other matters raised, including the lack of objection from the Town Council, I conclude that the appeal should be dismissed.

Anne Napier-Derere

INSPECTOR



Costs Decision

Site visit made on 4 March 2013

by Anne Napier-Derere BA(Hons) MRTPI AIEMA

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

Decision date: 15 May 2013

Costs application in relation to Appeal Ref: APP/J1915/A/12/2187634 Arrowhead, North Road, Hertford SG14 1NE

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Vincent Teo (Thinklogic Ltd) for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing dwelling and outbuildings and erection of 2 No. detached houses, associated access road and landscaping.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant considers the way in which the Council determined the application was unreasonable in that it failed to ask the applicant to provide additional information in support of the application prior to determination, with regards to the provision of floor plans and the potential impact on trees, parking and turning. The Council disagrees with this view and indicates that such a request was made, but there is no documentary evidence of this, although reference to it is made within the Council officer's report. This, in part, refers to the absence of these details in recommending refusal of permission for the proposal.
4. I note that the applicant did not seek advice from the Council, prior to submitting the application, about the amount and type of information that would be expected to support an application for a development proposal of this nature. However, the application was for full planning permission and the provision of floor plans is a standard requirement for residential proposals. The planning application form makes reference to the potential need for a tree survey in circumstances where development may affect trees on or close to the site. Furthermore, from the evidence before me, the applicant was aware of a previous application on the site which was refused permission for reasons which, in part, referred to mature landscaping on the site.
5. It is incumbent on the applicant to provide all information reasonably necessary to enable the Council to determine the application. In this case, whilst the

procedures adopted by a planning authority for determining planning applications are largely a matter for the authority (paragraph B9 of Circular 03/2009), to my mind, none of the details considered by the Council to have been lacking was unusual or could not have been foreseen. Consequently, I consider that the Council did not act unreasonably in determining the application on the basis of the information submitted with it.

6. The applicant also considers that the Council has failed to produce relevant evidence on appeal to support the decision in all respects. The Council refused the application for three reasons, all of which are set out in the decision notice and explain the perceived harm that would arise from the development. Although succinct, they are sufficiently complete, precise and specific to enable the applicant to be able to address the concerns raised as part of the appeal process. The reasons for refusal are also relevant to the application and, with the exception of the second reason, referred to below, make reference to the relevant development plan policies (paragraph B16).
7. The Council has largely chosen to rely on the officer's report on the application to support its decision. This is not, in itself, unreasonable and the comments within the report, supplemented by the Council's appeal statement, provide realistic and explicit evidence, which is adequate to explain why the Council considered that the proposal would result in a harmful overdevelopment of the site, which would be poorly laid out and connected and which would result in unacceptable overlooking and loss of privacy to neighbouring occupiers (paragraphs B18 and B19).
8. In respect of the first reason for refusal, certain aspects of a scheme can contribute to an assessment of whether a proposal would represent an overdevelopment of the site, such as the density of development and garden sizes. However, the excessive scale, mass and height of a proposed building in the context of the surrounding area, the layout of a site, the parking and turning provision, the impact on trees and the relationship with adjoining properties can also be appropriate indicators in this regard. The Council's position on these matters is clearly set out in its evidence. I consider that this shows an understanding of the context of the site and explains how the proposal would fail to promote or reinforce local distinctiveness so as to more than adequately substantiate this reason for refusal (paragraph B19).
9. In respect of trees and landscaping, the Council has relied on the assessment of the site by the planning officer rather than seek specialist advice. This is not, in itself, an unreasonable approach and it is for the Council to determine when to seek specialist advice to support its decision making process. The Council officer's report referred to the site as densely landscaped and overgrown and suggests that the proposal would result in the clearance of the site. However, reference is also made to new planting and the retention of existing planting to the Camps Hill boundary. Accordingly, I consider that, whilst this description of the site may not reflect my experience of it at the time of my visit, the assessment appropriately referred to the proposed retention of the existing boundary planting. Furthermore, due to the nature of the appeal proposal and the absence of compelling evidence to the contrary, I have shared the Council's concerns that the proposal may result in the loss of mature landscaping on or near the site (paragraph B16).
10. The submitted details require, amongst other things, an interpretation of the site layout plan and elevation drawings to determine the parking arrangements

proposed. The site is constrained and, whilst I have concluded otherwise with the benefit of the additional information provided with the appeal, I concur with the Council's view that it is not clear from the originally submitted drawings that sufficient space exists within the site to enable vehicles to manoeuvre so that they can enter and leave the site in a forward gear. Consequently, although I have not agreed with the Council's views in all respects, the evidence produced provides a respectable basis for the authority's stance (paragraph B16)

11. The officer's report refers to the proposal overlooking the rear of The Knoll. Whilst I acknowledge that the elevation and part of the garden that would be overlooked would be to the front of that dwelling, due to the unconventional characteristics of the area, the frontage of this neighbouring site is more enclosed and screened from wider views than might otherwise be the case. Although I have considered that the proposal would not be sufficiently harmful in this respect to justify withholding permission for this reason, I have also recognised that the development would lead to a change of impact on the neighbouring occupiers. Consequently, whilst I have come to a different conclusion to the Council about the extent of harm resulting from this, I consider that the erroneous reference to the rear of the dwelling did not disadvantage the applicant from responding to these concerns and the comments provided by the Council are adequate to explain why it considered the proposal would be harmful in this respect (paragraph B18).
12. The second reason for refusal refers to policy SD1 of the *East Herts Local Plan Second Review 2007*, which relates to larger development proposals than the one which is the subject of the related appeal. However, this policy has the underlying aims of achieving sustainable development which, as a purpose, is fully supported by national policy for all development proposals. In addition to this policy, another development plan policy is also referred to and the Council's report and appeal statement provide specific and adequate evidence as to why it considered the proposal would be poorly laid out and connected. Consequently, I consider that, despite reference policy SD1, the Council's reason for refusal does not prejudice the applicant's ability to address the concerns raised as part of the appeal process (paragraph B16).
13. The Council has also made reference to 'Building for Life 12', which is a guidance document published by a partnership of organisations and intended to be used nationally to encourage well-designed homes and neighbourhoods. In respect of the issues in dispute in this case, the guidance supports the Council's adopted development plan policies and, as up-to-date national guidance containing relevant design advice, I consider that it is not unreasonable for the Council to refer to it (paragraph B19).
14. The Council's confirmation that the revocation of the East of England Plan was not considered to have any material implications for the appeal is not, to my mind, an indication that the Council have acted unreasonably by failing to address the issue of housing land supply and the advice contained in paragraphs 14 and 49 of the Framework. I have taken this issue and the relevant advice into account in reaching my decision. Despite this, I have concurred with the Council's view as regards the harmful impact of the proposal in respect of the first and second reasons for refusal and, as such, the Council have not prevented or delayed development that should clearly have been permitted (paragraph B15).

15. Consequently, I consider that the Council did not act unreasonably in refusing the application for these three reasons and, therefore, the applicant's expenses incurred in mounting the appeal were not wasted or unnecessary. For this reason and having regard to all other matters raised, an award of costs is therefore not justified.

Anne Napier-Derere

INSPECTOR



Appeal Decision

Site visit made on 22 May 2013

by Ray Wright BA(Hons) DipTP MRTPI

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

Decision date: 31 May 2013

Appeal Ref: APP/J1915/D/13/2196603

62 Maze Green Road, Bishop's Stortford CM23 2PL

- 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 Clark and Ms T Wilson against the decision of East Hertfordshire District Council.
 - The application Ref 3/13/0121/FP was refused by notice dated 26 March 2013.
 - The development proposed is 'extension and alterations.'
-

Decision

1. The appeal is dismissed.

Main issue

2. The main issue in this case is the effect of the proposals on the character and appearance of the area.

Reasons

3. The appeal site consists of a detached dwelling, with large front garden and garage and outbuildings to its rear.
4. The proposed development has a number of elements, including a two storey side extension, a two storey rear extension, a single storey front glazed addition and an increase in height of the main roof.
5. The National Planning Policy Framework (Framework) indicates that there should be a presumption in favour of sustainable development, but confirms good design is a key aspect of sustainable development and that development of poor design, which fails to take the opportunities available for improving the character and quality of an area, should be refused.
6. Policies ENV1, ENV5, and ENV6 of the East Herts Local Plan Second Review 2007 (LP) require extensions to be of a high standard of design and layout, to reflect local distinctiveness, and to be in character with existing and adjoining dwellings.
7. The property is located on a prominent corner site, where ground levels are significantly higher than the adjoining road and pavement at Dane Hill.
8. Similar to other dwellings in Maze Green Road, the site benefits from boundary tree/shrub planting to both the front and side boundaries, which provides some screening and gives it a verdant setting. However, some boundary planting appears to have recently been removed in connection with driveway works.

While new planting has taken place this is relatively small scale and will take some time to establish. As a consequence, there are clear views of the existing house from public vantage points in Dane Hill and properties opposite. However, due to the significant set back from the boundary, it currently retains a low key presence in the street scene.

9. The proposed side extension would extend beyond both the front and rear building lines of the existing house, and would be in much closer proximity to the side boundary. Although the roof of the extension would be marginally lower than the main ridge line of the property it would not appear subservient from lower level views, particularly due to its gabled form. The rear extension, due to its size and form would similarly appear far more strident than the current single storey elements. Any perceived reduction in its mass and bulk, due to the hipped roof, being countered by the tall chimney feature. As proposed, to my mind, both the side and rear extensions would represent prominent and dominant additions to the dwelling.
10. The upper parts of both extensions would be clearly visible features adding significantly to the prominence of the dwelling from Dane Park. Such substantial extensions so close to the boundaries would, due to their scale, transform the existing setting, so that the property would be changed from a low key element in the street scene, to a far more obvious and conspicuous dwelling, out of keeping on this important corner site. I do not consider this effect could be reasonably ameliorated by additional landscaping.
11. The front extension, although atypical with its glazed form and lantern roof, would be concealed to a significant degree by existing landscaping and, being single storey, would represent a relatively low key addition to the house.
12. While the house sits within a large plot, where additional accommodation could readily be added without adverse effect on the character of the area, the level of additions in this scheme is, to my mind, excessive. Overall, I conclude that, due to the size and form of the proposed side and rear extensions in particular, the proposals would adversely affect the character and appearance of the area, contrary to the Framework, and Policies ENV1, ENV5, and ENV6 of the LP.

Other Matters

13. I recognise works to the next door property are currently taking place having recently been granted permission by the Council. I also note that significant alterations appear to have been made to no 61. I have, however, considered this appeal on its individual merits. I have also noted some concern, expressed by the appellants, regarding advice given by the Council in respect of the appeal proposals, but this is a matter that would be dealt with under their complaints procedure.

Conclusion

14. For the reasons given above, I conclude that the appeal should be dismissed.

Ray Wright

INSPECTOR