



# The Planning Inspectorate

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Development Control  
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Your Ref:  
Our Ref:  
Date:

3/11/2137/SV  
APP/J1915/Q/12/2183476  
16 October 2013

Dear Sir/Madam

**Town and Country Planning Act 1990**  
**Appeal by Tanners Wharf Ltd**  
**Site at 95 -97 London Road, Bishop's Stortford, CM23 3DT**

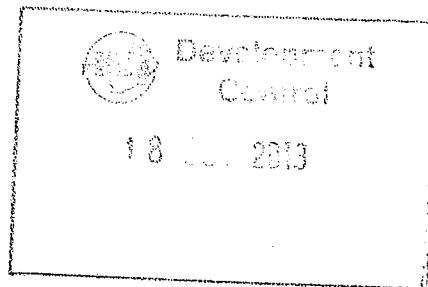
I am writing to tell you that the appeal (reference number APP/J1915/Q/2183476), has been withdrawn. We will take no further action on the appeal.

Yours sincerely

*D. Howe*

pp Sandra Grant

208B



You can use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is - <http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp>  
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Mr Stephen Milton  
Era Care Ltd  
Unit G22 Allen House  
The Maltings, Station Road  
Sawbridgeworth  
Hertfordshire  
CM21 9JX

Your Ref: 3/12/0771/CC  
Our Ref: APP/J1915/X/12/2187285  
Date: 3 October 2013

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Dear Mr Stephen Milton

**Town and Country Planning Act 1990  
Appeal by Mr Stephen Milton  
Site at 18 Millers Close, Bishop's Stortford, Hertfordshire, CM23 4FJ**

Thank you for your letter of 2 October 2013 withdrawing the above appeal.

**I confirm no further action will be taken.**

A copy of your letter has been sent to the local planning authority.

Yours sincerely

Kate Parfrey

E208A(BPR)

*You can use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is - <http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp>  
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## Appeal Decision

Site visit made on 19 August 2013

by **John Felgate BA (Hons), MA, MRTPI**

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

Decision date: 7 October 2013

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**Appeal Ref: APP/J1915/A/13/2195343**

**Land off Longmead, Buntingford, Hertfordshire SG9 9EF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for approval of details required by a condition of a planning permission..
  - The appeal is made by Matthew Homes Limited against East Hertfordshire District Council.
  - The application Ref 3/12/1417/RP, dated 20 August 2012, sought approval of details pursuant to condition No 2 of planning permission Ref 3/10/2040/OP, granted on 18 October 2011.
  - The reserved matters for which approval is sought are siting, design and external appearance.
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### Decision

1. The appeal is allowed and, in pursuance of condition No 2 attached to planning permission Ref 3/10/2040/OP, the reserved matters of siting, design and external appearance contained in the application Ref 3/12/1417/RP, dated 20 August 2012, are approved, subject to the further conditions set out in Schedule 1 to this decision.

### Application for costs

2. An application for costs has been made by the appellant against the Council. That application is the subject of a separate Decision.

### Preliminary matters

3. The application seeks approval of "*access, appearance and layout*". However, the matters reserved by condition 2 of the outline permission are *siting, design and external appearance*. I have dealt with the appeal on the basis that the matters for which approval is sought are those required by the terms of the permission.
4. There is a discrepancy in the submitted plans with regard to the proposed housetype on Plot 26. However, the Council and the appellants have agreed that the appeal should proceed on the basis that the proposal is for a 2-storey 'C1' type. I have dealt with this clarification by way of a condition.
5. The appellants' appeal submission includes an amended plan, No PL-05 Revision B, incorporating minor changes to the fenestration of proposed Plots 11, 15, 16 and 19. The new plan is not objected to by the Council, and causes no prejudice to any party. I have therefore treated it as part of the appeal scheme, in place of the previously submitted No PL-05 Revision A.

6. At a committee meeting on 22 May 2013 the Council resolved that, had an appeal not already been made, it would have refused the application. The reasons for their decision are reflected in the issues identified below.

### **Main issues**

7. From the submissions made, it seems to me that the main issues in the appeal are:
- whether the development would appear cramped, adversely affecting the character and appearance of the area;
  - whether the siting and distribution of the proposed affordable housing units would be acceptable, having regard for the policy aim of creating inclusive and mixed communities;
  - and whether the siting and layout of the proposed parking courts at the southern end of the site would provide a safe environment for future residents.

### **Reasons for decision**

#### *Effects on the area's character and appearance*

8. The Council's concerns, as expressed in the committee resolution, relate to the size and scale of the proposed dwellings, and the lack of public amenity space, resulting in a cramped layout and design. Policy ENV1 of the Local Plan<sup>1</sup> (the LP) requires, amongst other things, that developments should be of a high standard of design and layout, and should reflect local distinctiveness.
9. However, the scheme proposes 26 dwellings on a site which is said to be 1.15 ha, amounting to a density of only 22.6 dwellings per hectare overall. The majority would be detached houses on reasonably good-sized plots. Most of these would have wide frontages, with double-width garages or driveways between the buildings, and would be set back between 3-5m from the road. These features of the layout would give the development a spacious appearance.
10. Five of the proposed houses would have accommodation on three floors (Plots 2, 5 and 21-23), but the upper floor of these 2½-storey dwellings would be wholly within their roofs, and the overall height would be only slightly more than those with only two storeys. I agree that the presence of gabled or dormer windows above the eaves line would give these units a more assertive appearance. However, they would be few in number, and would be distributed around the site, with no more than three grouped together. Consequently, in my judgement, the inclusion of the 2½-storey units would not result in the development looking cramped.
11. I appreciate that the existing properties in Longmead are a mixture of 2-storey and chalet bungalows, but the development now proposed would be visually separate from these. Although the ground rises, the slope is not so great as to materially exacerbate the difference in heights.
12. The scheme would not include any public amenity space, but there appears to be no specific policy requirement for any such provision, and I note that a financial contribution to the provision of parks and gardens is provided for in

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<sup>1</sup> The East Herts Local Plan Second Review, adopted April 2007

the agreement that accompanied the outline permission. Given the limited number of dwellings proposed, the development's spacious nature, and the edge of town location, I can see no particular need for any on-site open space in this case.

13. I conclude that the proposed development would not be unduly cramped, and thus would not adversely affect the character or appearance of the area. In this respect therefore, I find no conflict with Policy ENV1.

*Siting and distribution of affordable housing*

14. Paragraph 50 of the National Planning Policy Framework (the NPPF) encourages the creation of sustainable, inclusive and mixed communities. The Council contends that the layout now proposed would conflict with this aim, because the affordable housing would not be well integrated with the development.
15. The 10 affordable dwellings, on Plots 10-19, would be grouped together in one part of the site. This would not accord with the Council's Affordable Housing SPD, which advises that affordable housing should normally be distributed across the site rather than in one single parcel. However, the SPD is not mandatory, but is guidance to be considered alongside other factors, such as the circumstances of the site and the effects on the development overall.
16. Here, although the affordable units would be located together, they would not in any way be separate from the rest of the development. They would use the same access point, share the same estate road, and form part of the same linear arrangement as all the other properties. In design and townscape terms, the grouping of the affordable units would create an attractive terminal feature. It would also make efficient use of an awkwardly shaped part of the site, allowing a less dense and more spacious approach in the main central part of the site, to the benefit of the development as a whole.
17. I fully understand the Council's preference for a more dispersed arrangement. However, that does not necessarily mean that any other approach is unacceptable. There is no relevant policy requirement in the development plan. Although reference has been made to LP Policies HSG 3 and HSG4, these deal with other aspects of affordable housing. Here, it is not disputed that the development would meet the Council's requirements as to the number of units, and the size and tenure mix, and that a delivery mechanism is in place. In the light of all the relevant considerations, it seems to me that the scheme now proposed would successfully integrate the affordable and open market housing elements into an acceptable overall development.
18. I also note from the appellants' submissions, which are not disputed, that an alternative scheme has subsequently been approved by the Council, in which, although there are some differences from the appeal scheme in other respects, the layout of the affordable housing is the same. This reinforces my view that the present proposal is acceptable in this respect.
19. I conclude that the development now proposed would not conflict with the NPPF's aims with regard to the creation of sustainable, inclusive and mixed communities.

### *Safety of the proposed parking courts*

20. The concern expressed in the committee's resolution relates to a perceived lack of natural surveillance to the proposed 8-space parking court between units 15 and 16. This follows from comments made by Hertfordshire Constabulary. However, the amended plan referred to above, No PL-05 Revision B, introduces a side window into the kitchen/dining area of dwelling 16, and moves forward the corresponding window of unit 15. Both of these would now look directly onto the parking area. The majority of the area in question would also be overlooked in any event by the front windows of both units 15 and 14, or by the upper rear windows of unit 16. All together, it seems to me that sufficient natural surveillance would be provided for this fairly small parking area.
21. The Council's appeal statement also refers to "parking courts" in the plural. But the 6-space court between plots 10 and 11 would be overlooked by the front windows of unit 10, including the main living room, and the amended plan would add an additional kitchen/dining room window in the side of unit 11. The two private parking spaces adjacent to plot 19 would be overlooked from the rear upper floor of that dwelling, and the amended plan introduces an additional side window as at No 11. Both of these smaller areas would therefore also have adequate surveillance.
22. It appears that a similar arrangement of parking courts and overlooking windows has now been approved as part of the subsequent application. Again, this reinforces my view.
23. I conclude that all of the parking areas in the southern part of the site would have adequate surveillance, and thus would provide a safe environment for future residents. In this respect, the scheme would meet the aims of LP Policy ENV3, which seeks to use good design and layout to combat crime.

### **Other matters**

24. I have given careful regard to the concerns of adjoining occupiers with regard to potential impacts on their privacy and outlook. The proposed dwelling on plot 26 would be close to the side boundary of No 5 Longmead. But the new dwelling would be orientated at an angle, away from the existing house. Some overlooking of the garden could occur from first floor windows, but this would not affect the privacy of the house itself, or its immediate surrounds. The new building would appear quite prominently in the view from No 5's garden, but the main 2-storey part would be about 20m from the existing house, and would be outside the direct line of view from it. It would therefore not appear unduly dominant. The house on plot 24 would be more in line with the view from No 5, but would be over 40m away from the existing house, and some 20m from its rear boundary. Even taking account of the difference in levels, these distances are more than enough to preserve good living conditions.
25. The new dwelling on plot 1 would be seen quite prominently from No 8 Longmead's side balcony, but would not be directly in line, and the distance to the main 2-storey part would be around 12m. The impact would therefore not be overbearing. No 8's principal outlook, to the front and rear, would be unaffected. There would be a first-floor bathroom window in the new dwelling's side elevation, but this would be a non-habitable room, some 8m from the boundary, and given the offset siting, any overlooking would affect only the front garden. This proposed window would therefore not cause any significant loss of privacy.

26. I appreciate that both of these adjoining properties would lose the view that they currently enjoy, of undeveloped land. But that became inevitable when outline planning permission was granted. The issue now is whether the proposed scheme would unreasonably harm living conditions at any existing property. For the reasons explained, my view is that it would not.
27. I note the concerns raised by neighbours regarding access and traffic, including construction traffic, and the lack of detail as regards landscaping. But the access from Longmead is already approved, as part of the outline permission, and landscaping is a separate reserved matter, which is not under consideration in the present appeal.

### **Reasons for conditions**

28. With regard to the Council's proposed conditions, I have considered these in the light of *Circular 11/95, The Use of Conditions in Planning Permissions*. I agree that a condition listing the approved plans is necessary, in the interests of proper planning and for the avoidance of doubt. For the reasons explained earlier in this decision, I have also added a condition regarding the housetype on plot 26. The suggested conditions relating to materials, boundary treatments, hard surfacing and levels are all necessary to ensure a satisfactory appearance, and in the latter case also to protect neighbouring occupiers.
29. However, the Council's proposed requirement for a drainage scheme based on an assessment of the site's hydrological and hydro-geological context would not be reasonable at the reserved matters stage, because the need for it does not relate to the development's siting, design or external appearance. And the suggested condition relating to obscure glazing is unnecessary because, for the reasons already explained, the window in question would not cause any significant overlooking.

### **Conclusion**

30. For the reasons set out above, I find that the proposed development would not adversely affect the area's character or appearance, and that the location of the affordable housing is acceptable, and that the surveillance and safety of the car parks would be adequate. The development would also take proper account of the interests of neighbouring occupiers.
31. I have taken account of all the other matters raised, but none alters these conclusions. The appeal is therefore allowed.

*John Felgate*

INSPECTOR

## SCHEDULE 1: CONDITIONS

The approval to which this decision relates is granted subject to the following conditions:

- 1) Except where these conditions specify otherwise, the development shall be carried out in accordance with the approved plans listed in Schedule 2.
- 2) Notwithstanding any other indication in the submitted plans, the dwelling on Plot 26 shall be a Housetype C1, in accordance with Drawing No PL-06 (Revision B).
- 3) No development shall commence until samples of the materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the local planning authority. The development shall be carried out using these approved materials.
- 4) No development shall commence until a scheme of boundary treatments has been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the boundary treatments relating to that unit have been erected in accordance with the scheme thus approved.
- 5) No development shall commence until a scheme of hard surfacing has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the materials to be used on all hard surfaced areas, including roads, driveways and parking areas, and a timetable for the implementation of these works. The scheme shall be implemented in accordance with the details and timetable thus approved.
- 6) No development shall commence until details of the existing and proposed ground and floor levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details thus approved.

## SCHEDULE 2: APPROVED PLANS

PL-01	Location plan
PL-02 Rev. C	House types A & B
PL-03 Rev. A	House type C
PL-04 Rev. A	House type D
PL-05 Rev. B	House types E, E2 & F
PL-06 Rev. B	House type C1
PL-07	Garage types
PL-002.1 Rev. G	Scheme layout





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## Costs Decision

Site visit made on 19 August 2013

**by John Felgate BA (Hons), MA, MRTPI**

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

**Decision date: 7 October 2013**

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### **Costs application in relation to Appeal Ref: APP/J1915/A/13/2195343 Land off Longmead, Buntingford, Hertfordshire SG9 9EF**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Matthew Homes Limited against East Hertfordshire District Council.
  - The inquiry was in connection with an appeal against the failure to give notice within the prescribed period of a decision on an application for approval of details required by a condition of a planning permission.
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### **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 Council's first reason for opposing the appeal related to the size and scale of the proposed dwellings, and lack of public amenity space. With regard to the size and scale point, this was essentially an aesthetic judgement. In such cases, paragraph B18 of the Circular states that it is unlikely that costs will be awarded, provided that realistic and specific evidence is produced. Here, the Council's evidence was brief, but nonetheless it was sufficient to explain the basis for the Council's case, and to show that there were reasonable planning grounds for going against the officer's recommendation. Although my eventual decision differs from the Council's, it was not unreasonable for the Council to want to defend its view on a matter of this kind.
4. With regard to the amenity space, given that a Section 106 contribution had already been provided for, it was unreasonable of the Council to raise that point as an objection now. However, this was not a stand-alone refusal reason, but part of the Council's argument about what they saw as the development's cramped appearance. That matter had to be dealt with in any event, for the reasons given above.
5. The Council's second reason was the location of the affordable housing. On this point, the Council's view was supported by specific guidance in the Affordable Housing SPD. Whilst my own conclusion was different, this was again very much an 'on balance' judgement. In the circumstances, the Council did not act unreasonably in opposing the appeal on this basis.

6. The final reason related to the issue of the surveillance of the car parking areas. It is true that this objection could have been overcome by a minor amendment, as is demonstrated by the appellants' revised plan, No PL-05 Revision B. But that plan was not submitted until a late stage in the appeal process. Had it been submitted earlier, there would have been no need for this to be an issue in the appeal. Based on the plans that were before them at the time, the Council did not act unreasonably in raising this issue.
7. I agree that the Council's approval of a subsequent application, which appears to have been similar in many respects, raises issues as to consistency. But the appeal application came first in that process, and thus no inconsistency arose at that time. If the Council subsequently changed its mind on matters relevant to the appeal, it should have advised the appellant as soon as possible. But by the time the second application was dealt with, the appeal was already well advanced. In any event, I have little information regarding the subsequent application, or the reasons for the Council's decision on it.
8. In summary, the only clear-cut evidence of unreasonable behaviour by the Council is the reference to amenity space in refusal reason 1. But that was only one element of the refusal reason. The issue of the effects on the area's character and appearance still had to be dealt with anyway, and there is no clear evidence that the inclusion of the amenity space point gave rise to any significant extra expense.
9. I therefore conclude that an award of costs should not be made.

*John Felgate*

INSPECTOR



# The Planning Inspectorate

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Development Control  
East Hertfordshire District Council  
Development Control  
Wallfields  
Pegs Lane  
Hertford  
SG13 8EQ

Your Ref:

3/12/1657/FP

Our Ref:

APP/J1915/A/13/2194047  
**Further appeal references at  
foot of letter**

Date:

3 October 2013

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Dear Sir/Madam

**Town and Country Planning Act 1990**

**Appeals by Taylor WimpeyUK Ltd, Wheatley Homes, Taylor Wimpey UK Ltd  
and Taylor Wimpey UK Ltd**

**Site at Land North Of Hare Street Road, Buntingford and Land South Of Hare  
Street Road, Buntingford, SG9 9JQ**

I am writing to tell you that appeal reference number APP/J1915/A/13/2194047, has been withdrawn. We will take no further action on the appeal.

**We will continue to process the remaining appeals (2199777, 2205581 and 2205582) as planned, and hear all 3 at the inquiry on 10<sup>th</sup> December, as scheduled.**

Yours sincerely

Helen Skinner

Helen Skinner

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**Further appeal references:- APP/J1915/A/13/2199777, APP/J1915/A/13/2205581,  
APP/J1915/A/13/2205582**

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## Appeal Decision

Site visit made on 28<sup>th</sup> August 2013

**by Alison Roland BSc DipTP MRTPI**

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

Decision date: 9 October 2013

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### **Appeal Ref: APP/J1915/A/13/2194686**

### **Garage site to the East of Firlands, Bishop's Stortford, Hertfordshire, CM23 3TA**

- 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 South Anglia Housing against the decision of East Hertfordshire District Council.
  - The application Ref: 3/12/1860/FP, dated 29 October 2012, was refused by notice dated 6 February 2013.
  - The development proposed is demolition of existing 2 garage blocks and erection of a two storey detached block comprising 2 No two bedroom houses together with private amenity space and car parking.
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### **Application for Costs**

1. An application for costs was made by South Anglia Housing against East Hertfordshire District Council. This application is the subject of a separate decision.

### **Decision**

2. The appeal is allowed and planning permission is granted for demolition of existing 2 garage blocks and erection of a two storey detached block comprising 2 No two bedroom houses together with private amenity space and car parking at Garage site to the East of Firlands, Bishop's Stortford, Hertfordshire, CM23 3TA, in accordance with the terms of the application Ref: 3/12/1860/FP, dated 29 October 2012, subject to the schedule of conditions attached to this decision.

### **Main Issue**

3. The main issue in this appeal is the implications of the proposal for the living conditions of nearby residents in terms of the loss of the existing garage site and parking availability.

### **Reasons**

4. The existing garages on the appeal site are let by the appellant. There are a total of 15 garages of which they say 12 are let and 3 are vacant. The Council equally refer to 15 garages, but also include 5 additional "informal" spaces on the site. These spaces would be lost as a result of the appeal proposal and the Council and local residents are concerned that the displaced vehicles would exacerbate existing on street parking problems.
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5. I noted at my visit that there was considerable on street parking along Firlands and surrounding roads and have no reason to doubt the evidence that links this in part to the proximity of the area to the nearby town centre. Opportunistic parking by non residents will doubtless increase competition for spaces which will be a source of inconvenience for residents.
6. However, the appellant points out that the licensees of the garages have little security of tenure and occupancy can be terminated by giving the requisite notice. This being the case, irrespective of the outcome of the appeal, there can be no assurance that the garages would continue to be offered to local residents and it seems to me that whilst their existence is of benefit to residents, the appellant is under no duty to continue to make them available.
7. Moreover, whilst most of the garages are occupied, it is by no means clear how many of them are used for their originally intended purpose of housing a car as opposed to a more general storage purpose. In this respect, I note the appellant states that 7 of the garages are let by residents who live more than 0.25 miles from the site, which suggests they would be inconvenient for daily garaging use and casts doubt on the assumption that their loss would automatically lead to displacement of vehicles onto Firlands.
8. The appellant carried out a parking survey, the area of which was agreed with the Council prior to it being undertaken. This revealed that there is considerable spare capacity in the locality depending on the time of day. The Highway Authority agreed that there is sufficient capacity should other off road provision not be taken up, but suggested that the survey overestimated the available spaces by including parking on the bends at Firlands. However, I noted at my site visit that vehicles currently park on the bend in Firlands close to the appeal site and I thus see no reason why this space should not be considered as available parking. The officer report also commented that it would be open to the Council to introduce a resident's permit parking scheme which would improve the situation for residents.
9. Overall on the main issue, whilst it is possible that some vehicles could be displaced from the existing garage site onto roads in the vicinity of the appeal site, the available evidence does not substantiate the assertion that it would materially worsen on street parking in the area, thereby harming the living conditions of residents. It follows that the proposal would accord with Policy ENV1 of the East Herts Local Plan Second Review 2007 as well as the advice in the Framework, which seek to ensure that new development respects the amenity of occupiers of neighbouring buildings and provides high quality living environments.

### **Other Matters**

10. The occupier of 136 Apton Fields is concerned about the potential for loss of light together with overbearing effects and loss of privacy and I viewed the appeal site from that property at my visit. The rear elevation of the proposed house nearest that property would project out beyond its front building line. However the introduction of the two storey form would be counterbalanced by the loss of the existing garaging which runs virtually the full length of the garden to that property and its replacement with a garden area. Moreover, unlike the existing garage buildings, the side of the house would stand away from the common boundary with No 136. Thus, whilst the proposal would have some impact on no 136, I do not consider it would be appreciably worse than the existing situation and could

arguably represent an improvement in some respects. Any overlooking from the bathroom window can be prohibited through a condition requiring obscure glazing. I also consider the existing window to the side of No 136 would continue to receive adequate light due to the available separation distance.

11. The occupier of No 10 Firlands is concerned about loss of sunlight to the rear garden, but as the dwellings would stand to the North thereof, I do not consider they would be likely to cause appreciable harm in this regard. I am also satisfied given the removal of the existing garages and relative separation of the dwellings from other nearby houses on Firlands and Apton Fields, that the proposal would not materially harm the living conditions of any other residents.
12. Concern is expressed about the design of the proposed houses and in this respect, I am mindful of the Bishop's Stortford Conservation Area which straddles the site. There is a mix of house types in the immediate vicinity with traditional properties juxtaposed alongside more modern examples, with the latter predominating along Firlands. In this context, I consider the proposed houses would integrate satisfactorily with the prevailing character of the area and would not harm the Conservation Area or its setting.
13. I am mindful that the construction phase would be likely to generate some disturbance, a factor of concern to some residents, but this is likely to be of relatively short duration and a condition can be imposed confining this to reasonable hours. Any contamination of the site can also be dealt with through the imposition of a suitably worded condition.

### **Conditions**

14. The Council suggest several conditions in addition to the standard time limit for the commencement of development. A condition confining the approval to specified plans is necessary for the avoidance of doubt. Conditions dealing with the external materials of construction, hard and soft landscaping and boundary treatments are necessary to secure a satisfactory external appearance. Conditions dealing with the hours of construction and requiring obscure glazing to side facing windows are necessary to protect the amenities of nearby occupiers. However, I shall dispense with the condition requiring details of piling which I consider unnecessary as if required, it would be of relatively short duration and in any event, would be covered adequately by the condition dealing with the hours of construction. A condition dealing with any potential land and water contamination is necessary due to the potential for contaminants on the site, but I shall adopt a more concise wording. Conditions detailing the specifications of the site access and availability of off street parking are also necessary to safely meet the needs of the development. A condition is suggested requiring the appellant to transfer the leases for occupiers of the garage site to other garages within Firlands. Such a condition would prove difficult if not impossible to enforce in perpetuity, could not be guaranteed to secure the desired effect and in any event, given my conclusion on the main issue, I find it unnecessary.

*ALISON ROLAND*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 1:1250@A4; Drwg No: 56032 0450-P: Topographical and Utility Mapping Survey; Drwg No 101 Rev B Proposed Site Plan (Option B); Drwg No 200 Rev B: GA Floor Plans (Option B); Drwg No 300 Rev B: Elevations; Drwg No 310 Rev B: Section A-A & B-B; Drwg No 320 Rev B: 3D Views and Perspectives.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of all boundary treatments have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to first occupation of any of the dwellings.
- 5) No works or development shall take place until full details of all proposed hard and soft landscaping, including a timescale for implementation, have been submitted to and approved in writing by the local planning authority, and all landscaping shall be carried out in accordance with those details and the approved timescale.
- 6) If within a period of two years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, (or becomes, in the opinion of the local planning authority, seriously damaged or defective), another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
- 7) No demolition, site preparation or construction works shall take place outside the hours of 07.30 to 18.30 Monday to Friday and 07.30 to 13.00 on Saturdays, nor at any time on Sundays and Bank Holidays.
- 8) No development shall commence until a detailed site investigation has been carried out to establish if the site is contaminated, to assess the degree and nature of the contamination present, and to determine its potential for the pollution of the land and groundwater. The method and extent of this investigation shall be agreed with the local planning authority prior to commencement of the work. Details of measures for the remediation of any pollution of the land and groundwater, including provisions for monitoring and a timescale for implementation, shall then be submitted to and approved in writing by the local planning authority, before development commences. The development shall proceed in accordance with the approved measures and timescale.
- 9) The window openings in the first floor flank elevations shall be fitted with obscure glazing and shall thereafter be permanently retained in that condition.
- 10) Prior to commencement of development, further detailed specifications of the vehicular access to the site shall be submitted to and approved in writing by

the local planning authority. The development shall be carried out in accordance with the approved details prior to occupation of the dwellings.

- 11) The parking spaces depicted on the approved plans shall be laid out and made available for use prior to occupation of the dwellings and shall thereafter remain permanently available for their designated purpose.





## Costs Decision

Site visit made on 28<sup>th</sup> August 2013

by **Alison Roland BSc DipTP MRTPI**

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

Decision date: 9 October 2013

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**Costs application in relation to Appeal Ref: APP/ J1915/A/13/2194686  
Garage site to the East of Firlands, Bishop's Stortford, Hertfordshire, CM23  
3TA**

- 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 South Anglia Housing for a full award of costs against East Hertfordshire District Council.
  - The appeal was made against the refusal of planning permission for demolition of existing 2 garage blocks and erection of a two storey detached block comprising 2 No two bedroom houses together with private amenity space and car parking.
- 

### Decision

1. The application for an award of costs is allowed in the terms set out below.

### 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. Paragraph B19 of the Circular states that Planning Authorities are not bound to accept the recommendations of their officers. However, if officer's professional or technical evidence is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects.
  4. The officer report concluded that provided residents were offered replacement garaging at another garage site in the local area, there was no evidence to demonstrate that the proposal would give rise to an unacceptable increase in on street parking. It also accepted that the parking survey undertaken on behalf of the appellant demonstrated surplus parking capacity on surrounding streets.
  5. In my decision on the related planning appeal, I have concluded that a condition to secure replacement garage parking would be both unnecessary and unenforceable in the longer term. In coming to this view, I had regard to the results of the parking survey, the lack of evidence relating to the percentage of
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garages that were utilised for parking cars and the appellant's evidence that 7 of the garages were let to residents who reside more than 0.25 miles from the appeal site.

6. The Council say that their decision whilst not based on technical evidence, was a reflection of members and officers observations, together with representations made by local residents. Paragraph B21 of the Circular states that to carry significant weight, opposition should be founded on valid planning reasons which are supported by substantial evidence and paragraph B18 states that vague or generalised assertions about a proposal's impact, which are unsupported by any objective analysis are more likely to result in a costs award.
7. I accept that the assessment of impact on residents living conditions is a subjective judgement. However, if as in this case it is predicated on the notion that the proposal would give rise to a substantial increase in on street parking and there is little if any objective analysis of the impact of the development in this regard, I do not consider the link between cause and effect has been demonstrated. Moreover, even if the proposal did increase on street parking in the vicinity, there is no substantive analysis of the consequences of this for the amenities of nearby residents.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.

#### **Costs Order**

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that East Hertfordshire District Council shall pay to South Anglia Housing the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to East Hertfordshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*ALISON ROLAND*

INSPECTOR

## Appeal Decision

Site visit made on 19 August 2013

by **Ian Currie BA MPhil MRICS MRTPI** (Retired)

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

Decision date: 01 October 2013

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**Appeal ref:- APP/J1915/X/13/2191704**

**The White Cottage, 9 Chapmore End, Ware, Herts, SG12 0HF**

- 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 lawful development certificate (LDC).
- The Appeal is made by Mr I Lyon and Mrs E Lyon against the decision of East Hertfordshire District Council
- The application, Ref:- 3/12/1918/CL dated 12 November 2012, was refused by notice dated 8 January 2013.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a lawful development certificate (LDC) is sought is a replacement porch and rear two-storey extension.

**Summary of decision:- The appeal is dismissed**

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### Preliminary Matters

1. An application for costs was made by the appellants, Mr I Lyon and Mrs E Lyon, against East Hertfordshire District Council. This application is the subject of a separate Decision.
2. The appellants claim that the proposed rear extension falls to be considered under Article 3 and Schedule 2, Part 1 Class A of the Town & Country Planning (General Permitted Development Order) 1995 as amended (GPDO), which provides that the enlargement, improvement or other alteration of a dwellinghouse is permitted development (PD), subject to limitations and conditions. The Council refused to grant a LDC on the basis that the proposed two-storey rear extension would not fall within the scope of Class A, specifically and only because it would fail to comply with condition A.3(c).
3. There is no dispute that the proposed porch would be PD under Part 1, Class D of Schedule 2 to the GPDO. However, a further LDC application (Local authority ref:- 3/13/01112/CL) was granted by the Council on 14 March 2013 for development including an identical porch. Therefore, there is no need for me to grant a separate LDC in relation to this aspect of the current proposal. The 2013 LDC also relates to a rear extension with a different design from that before me.

### Main Issue

4. I consider that the main issue is whether the proposed two-storey rear extension would be permitted development under Part 1, Class A of Schedule 2 to the GPDO.
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## Reasons

5. Where a LDC is sought, the onus of proof is on the appellant and the standard of proof is the balance of probabilities. The appeal concerns a detached brick house, constructed with its gable-ended pitched roof parallel to the highway and a pre-existing two-storey extension with matching pitched roof on its northern flank. The proposed rear extension would be designed so that its gabled roof is at right angles to that existing. It seems to be agreed that the original roof has a 32° pitch and the proposed extension would have a roof pitched at 26°.
6. Development is permitted under Class A subject to condition A.3(c) that, where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part shall, so far as practicable, be the same as the roof pitch of the original dwellinghouse. The appellants question whether a failure to comply with a condition would be determinative in relation to whether an extension is PD and may be granted a LDC. I find that development would not be permitted by Class A unless condition A.3(c) is met and this can be assessed by reference to the submitted plans.
7. The appellants refer to *Technical Guidance: Permitted Development for Householders*, published by the Government to help understand changes made to the GPDO in 2008. It includes a diagram to illustrate condition A.3(c), and it shows an extension that is viewed in the same plane as the house, rather than at right angles. In my opinion, this is of little consequence. The diagram is expressly included as an example of what is meant by condition A.3(c). Neither condition A.3(c) nor the Technical Guidance includes any qualification as to siting or orientation of 'the enlarged part' of the dwellinghouse.
8. The key question is whether, despite the 6° difference, the proposed roof can be considered the same as that existing *so far as practicable*. The appellants have submitted three alternative plans to suggest that it would be impractical to build an extension with a 32° pitch. In the first plan, the extension would have the same eaves as currently proposed and as the original roof. With a 32° pitch, the ridge of the extension would be higher than that of the original roof, in conflict with limitation A.1(b). The appellants suggest that it was not the intention of Parliament to require that development is undertaken so that it would meet a condition but fail a limitation of the GPDO. That is incorrect; PD rights are granted subject to limitations **and** conditions.
9. In the second alternative plan, the eaves and pitch of the extension roof would be as described above but it would have a crown design to reduce the height of the ridge. The appellants suggest that a crown roof would appear unsightly and require more maintenance. These are matters relevant to planning merits and not lawfulness. It has not been shown that a crown roof would be impracticable to achieve. The third alternative plan shows an extension with a 32° pitch but lower eaves, so that the ridge ties into that of the original house. This option is described as a secondary solution for the appellants; they consider the design to be awkward and note that it would result in lower headroom. Again, these matters relate to the merits of the scheme. The appellants have not shown that the scheme is not practicable and, indeed, it is the subject of the LDC granted by the Council.
10. It may be that, as suggested on behalf of the appellants, the purpose of condition A.3(c) is to ensure that two-storey extensions are integrated with,

and sympathetic to, the style and character of the original house. Nevertheless, the question of whether a rear extension would comply with the condition must be assessed objectively. It cannot be influenced by aesthetic or other personal preferences. The appellants have not shown that the roof pitch of the proposed extension would be the same as the original roof pitch, so far as practicable. By contrast, they have submitted a further LDC application incorporating a pitched roof with the same angle as the main roof of the existing house and the Council has quite properly issued a favourable decision. If the appellants prefer a different design for the extension, they are entitled to make a planning application.

11. The appellants also suggest, with reference to other decisions made on appeal or by this local planning authority, that compliance with condition A.3(c) only requires 'similarity' between the pitches of original and extension roofs. However, condition A.3(c) plainly uses the word 'same' and not similar.
12. I am not aware of the full details of the other LDC decisions and each determination of this matter has to be made on a case-by-case basis. It is not that the decision-maker should be 'flexible'; rather, an assessment should be made as to what roof pitch may be practically achieved, as a matter of fact and degree, depending on the circumstances. In this instance, as suggested above, the appellants have not shown that the roof pitch of the proposed extension would be the same as the original roof pitch so far as practicable.
13. Given the LDC granted for an alternative scheme, and with regard to all other matters raised, I conclude that the sloping roof shown in this application would not have the same degree of pitch as that of the original main roof. On the balance of probabilities, however, it would be practical to achieve a roof of the same pitch. Thus, the proposed rear extension would fail condition A.3(c) and it would not be permitted development by virtue of Class A of Part 1 of Schedule 2 of the amended GPDO. As a consequence, the refusal of the Council to grant a lawful development certificate was well founded.

**Formal decision**

**Appeal ref:- APP/J1915/X/13/2191704**

14. The appeal is dismissed.

*Ian Currie*

INSPECTOR

## Costs Decision

Site visit made on 19 August 2013

by **Ian Currie BA MPhil MRICS MRTPI** (Retired)

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

Decision date: 01 October 2013

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### **Costs Application in Relation to Appeal ref:- APP/J1915/X/13/2191704 The White Cottage, 9 Chapmore End, Ware, Herts, SG12 0HF**

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
  - The application is made on behalf of Mr I Lyon and Mrs E Lyon for a full award of costs against the East Hertfordshire District Council.
  - The appeal was against the refusal of a certificate of lawful use or development for the erection of a two-storey rear extension and replacement front porch.
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### **Formal Decision**

1. The application for a full 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 lawful development certificate (LDC) was refused on the basis that the proposed rear extension would not comply with condition A.3(c) to Part 1, Class A of Schedule 2 to the Town & Country Planning (General Permitted Development) Order 1995 as amended (GPDO). The appellants argue that the Council failed:-
  - 1) to give proper consideration to the wording, interpretation and purpose of the condition;
  - 2) to take note of advice in *Technical Guidance: Permitted Development for Householders*;
  - 3) to consider the visual and physical consequences of alternative plans; and
  - 4) to apply the terms of the condition with flexibility, in accordance with other LDC decisions granted by themselves or on appeal.

4. I considered all these matters in the LDC appeal decision and I upheld the Council's approach. I find that the appellants have incorrectly interpreted the requirements of condition A.3(c), and the implications of the Technical Guidance and other decisions. Their alternative plans did not demonstrate that the proposed development is lawful under section 192 of the amended 1990 Act. By contrast, it was shown that the roof pitch of the enlarged part of the dwellinghouse would not be the same, so far as practicable, as the roof pitch of the original dwellinghouse.
5. In this situation, the application for costs cannot succeed. I have had regard to all other matters raised, but I conclude that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/09, has not been demonstrated. The application is refused.

*Ian Currie*

INSPECTOR

# Appeal Decision

Site visit made on 19 August 2013

by **Ian Currie BA MPhil MRICS MRTPI**

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

Decision date: 17 October 2013

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**Appeal ref:- APP/J1915/X/13/2194029**

**Ash Spinney, Bayford Lane, Bayford, Hertford, SG13 8PR**

- 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 lawful development certificate (LDC).
- The appeal is made by Mr D Broomer against a decision of East Hertfordshire District Council.
- The application, Ref:- 3/12/2069/CL dated 3 December 2012, was refused by notice dated 23 January 2013.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a lawful development certificate is sought is log store extension to existing building.

**Summary of decision:- The appeal is dismissed**

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## Main Issue

1. I consider that the main issue is whether the Council's decision to refuse to grant a lawful development certificate was well-founded.

## The case for the appellant

2. The log store extension is not within 2m of the plot boundary of this dwelling house and none of the works is more than 2.5m in height. The Council is incorrect in taking into account the overall height of the existing garage of more than 2.5m high within 2m of the boundary of the plot as breaching this requirement, as these are works that have been in existence for a long time. Therefore, the works constitute permitted development under the provisions of Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 as amended.

## The case for the Council

3. The Council agrees that all of the requirements of Class E are met by the proposed log store works, but the existing garage building is more than 2.5m high overall within two metres of the boundary of the plot. Therefore, limitation E.1(d)(ii) of the amended GPDO is breached and planning permission is required for the proposed log store.

## Reasons

4. The property is the southern half of a pair of semi-detached houses on the west side of Bayford Lane immediately to the north of a sharp bend in the road. It has a large garden on its south side, which separates the house from a brick
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built, gable ended garage building with a pitched roof sited on the southern boundary of the plot, adjoining a farm gateway and sharing it to gain vehicular access to the highway. The existing building has the appearance of having remained unaltered for several years.

5. Class E of Schedule 2 Part 1 of the amended 1995 General Permitted Development Order allows "*any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure*" (my emphasis) to be erected within the curtilage of a dwellinghouse without the need for planning permission, subject to limitations.
6. It is agreed that the present building is more than 2.5m high overall to the ridge of that gable-ended roof and that height is reached within 2m of the plot boundary. It is also agreed that no part of the proposed log store would be more than 2.5m high and would be more than 2m from any plot boundary.
7. However, this extension amounts to an 'other alteration' to an existing building required for a purpose incidental to the enjoyment of the dwellinghouse as such. Limitation E.1(d)(ii) of the amended Class E would be breached because the existing building is more than 2.5m high within 2m of the plot boundary. Therefore, the log store extension to the existing garage requires planning permission and I conclude that the Council's decision to refuse to issue a lawful development certificate was well-founded.

**Formal decision**

**Appeal ref:- APP/J1915/X/13/2194029**

8. The appeal is dismissed.

*Ian Currie*

INSPECTOR

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## Appeal Decision

Site visit made on 29 July 2013

by **David Johns BA(Hons) DipTP MRTPI**

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

Decision date: 15 October 2013

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**Appeal Ref: APP/J1915/A/13/2195919**

**22, Parsonage Lane, Bishop's Stortford, Hertfordshire, CM23 5BE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Irene Walker against the decision of East Herts Council.
  - The application Ref 3/13/0124/FP, dated 19 January 2013, was refused by notice dated 14 March 2013.
  - The development proposed is extension to an existing garage outbuilding and conversion to residential accommodation to create a studio dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are 1) the effect of the proposal on the character and appearance of the area and 2) whether the proposal would provide acceptable living conditions for the future occupiers of the proposed dwelling with particular regard to private outdoor amenity space.

### Reasons

#### *Character and Appearance*

3. The proposed development is the conversion of an existing detached domestic garage to residential use. The proposed external alterations to the building involve the replacement of the garage door with a domestic front door and a window; the addition of an approximately 3.4 metre long single-storey side extension to the rear part of the property and the insertion of 4 roof-lights in the south-facing roof slope of the existing pitched roof.
  4. The garage is located at the end of the rear garden of 22 Parsonage Lane, with access from Plaw Hatch Close, a side road abutting the eastern boundary of no.22. The proposed extension, at right angles to the rear of the garage and creating an L-shaped footprint, would be located at the back of the site, substantially screened from the road by a 1.8 metre high close-boarded fence on the eastern garden boundary of no.22 with Plaw Hatch Close, and a tree in that garden. Views of the front elevation, which is set back from the footpath a distance of about 4.5 metres, are restricted by the boundary fence of no.22 on one side and dense vegetation on the boundary with the adjacent semi-
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detached house on the other. I therefore consider that the proposal would be no more visually prominent in the street scene than the existing building.

5. Notwithstanding the above considerations I consider that the proposal would, nevertheless, appear incongruous and at odds with the prevailing suburban character of the area. Whilst acknowledging the local exceptions to the predominant layout of the area highlighted by the appellant, including the dwelling developed in former garden land directly opposite the appeal site, the proposal represents an extreme departure from the character of the area. In contrast to the general ambience of the area, typified by well-proportioned detached and semi-detached houses set in plots of a generally adequate size, the proposal would retain the appearance of a garage converted to a dwelling on a cramped plot of minimal size.
6. Policy ENV1 of the *East Herts Local Plan Second Review* (the Local Plan) requires all development to be of a high standard of design and layout and to reflect local distinctiveness. The appellant has questioned the relevance of Policy HSG7 of the Local Plan in the Council's reason for refusal. Whilst aimed principally at new development, I consider that the underlying thrust of the policy is equally applicable to the extension of an existing building to create of a new dwelling. Furthermore, whilst the existing building may well have been in place for a number of years, the change of use from a garage to a dwelling would represent a fundamental change in the character of the building.
7. Consequently, for the reasons outlined above, I conclude that the proposal would cause material harm to the character and appearance of the area. Accordingly, there would be conflict with Policy ENV1 of the Local Plan and with Policy HSG7 of the Local Plan which, among other things, seeks to ensure that the design of residential development complements the character of the local built environment. There would also be conflict with paragraph 58 of the *National Planning Policy Framework* (the Framework) which states, inter alia, that planning decisions should aim to ensure that developments will function well and add to the overall quality of the area and establish a strong sense of place to create attractive and comfortable places to live.

#### *Living Conditions*

8. The only private outdoor amenity space provided for the proposed dwelling would be an 8 metre by 1.5 metre strip between the dwelling and the boundary of the house to the south. The two small first floor windows in the side of the adjacent house have obscure glazing and, therefore, this outdoor space is not overlooked. The appellant contends that the 12 square metres of private outdoor space that would be provided is adequate as the new dwelling would not be occupied by a family with children. In the absence of any specific amount of private outdoor space required by the Council the *London Plan* minimum requirement of 5 square metres of private outdoor amenity space for a dwelling with 1-2 occupants is cited by the appellant as an example of the level of provision that is considered to be acceptable by other Councils. However, the standard of provision applicable to London Boroughs has not, as far as I am aware, been adopted in East Herts, where the demands on space are not so great.

9. Notwithstanding variations in the amount of private amenity space available to dwellings in the area, I consider that the very small amount of private outdoor amenity space to be provided with the proposed dwelling is significantly less than that which could reasonably be expected to be available for a dwelling of this type in this location. In addition, the narrow configuration of the space would also detract from its quality and value, as would its outlook towards a proposed new 1.8 metre high fence and the side wall of the adjacent garage, only about 1 metre beyond.
10. Consequently, for the reasons outlined above, I conclude that the proposal would cause material harm to the living conditions of the future occupiers of the proposed dwelling. Accordingly, there would be further conflict with Policy ENV1 of the Local Plan which expects all development proposals, including extensions to existing buildings, to be of a high standard of design and layout and to respect the amenity of future occupants. There would also be conflict with a core planning principle of the Framework, at paragraph 17, which seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

*Conclusion*

11. Notwithstanding that the proposed development would provide an additional unit of accommodation in a sustainable location, having had regard to all other matters raised I find nothing to outweigh the development plan conflict identified above and I therefore conclude that the appeal should be dismissed.

*David Johns*

INSPECTOR



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## Appeal Decision

SCANNED

SCANNED

Site visit made on 22 August 2013

by **J Westbrook BSC(ECON) MSC PGCE MRTPI**

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

Decision date: 2 September 2013

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**Appeal Ref: APP/J1915/D/13/2201196**

**21 Bishops Road, Tewin, WELWYN, Hertfordshire, AL6 0NR**

- 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 N Moore against the decision of East Hertfordshire District Council.
  - The application Ref 3/13/0170/FP was refused by notice dated 12 April 2013.
  - The development proposed is alterations to existing dwelling and a first floor rear extension.
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### Decision

1. The appeal is dismissed.

### Main issue

2. The main issue in this case is whether the proposed extension represents inappropriate development in the Green Belt and, if so, whether the harm to the Green Belt, and any other harm, is clearly outweighed by any other considerations

### Reasons

3. No 21 Bishops Road is a detached house on a large plot on the northern side of the road. The property lies within the Green Belt. It is a wide-fronted house with two integral garages. The plot slopes down from south to north such that the rear garden has a terraced nature and there are a number of large mature trees around and within the garden.
4. The proposed development would involve the conversion of one of the garages to a TV room and a range of alterations to the fenestration and roofs. None of these matters are in dispute and the Council has recently granted permission for alterations to the house similar to those currently proposed. At the time of my site visit alterations were in progress. The current proposal would also, however, involve the construction of a first-floor rear extension to the house, which would take the form of an additional bedroom above the existing study.
5. The original house, as constructed in the 1960s, apparently had a floorspace of some 140 sq metres. Since then it has been extended a number of times. The proposed extension would have a floorspace of some 16 sq metres and the Council contends that it would result in an overall floorspace in the extended dwelling of over 270 sq metres. This would represent a cumulative increase to

the original floorspace of around 93%. There would also be an increase to the overall volume of the dwelling. The proposed extension would result in a disproportionate addition over and above the size of the original building and would represent inappropriate development, which would, by definition, be harmful to the Green Belt. I accord this harm substantial weight in accordance with advice in Paragraph 88 of the National Planning Policy Framework.

6. The appellant contends that other houses in the vicinity have been extended or rebuilt recently. That may be the case, but I have no information as to the original or extended sizes of these properties and, in any case, I must deal with this case on its own merits. In this case, the bedroom extension would add to the scale of the dwelling and would also add built form to the area. It would, therefore, be detrimental to the openness of the Green Belt, particularly given the scale of the building plots in the area and the resultant openness of the surroundings, which would be eroded by cumulative extensions to the property.
7. The appellant also contends that, owing to the sloping nature of the appeal property, the proposed bedroom would appear little larger than the existing balustrade above the study. However, the bedroom would be a full height enclosed structure that would add significant bulk to the rear elevation of the house.
8. Finally, the appellant indicates that he has only recently purchased the property and that he needs the additional space for his family. I sympathise with his situation, but this is not a reason to cause harm to the Green Belt by virtue of further additions to a dwelling that has already been extended to a substantial degree, with resultant detriment to openness.
9. The Council contends that the proposed extension would result in a flat-roofed element to the dwelling that would be an undesirable design feature. However, the roof would be more accurately described as a small crown roof and it would not appear to have a flat-roofed element from any significant viewpoint. There is a range of roof designs on neighbouring houses including hipped and gable elements along with a variety of dormers. On this issue, therefore, I do not consider that the proposal would be detrimental to the overall appearance of the house and that it would not represent poor design in the context of its surroundings. However, this in itself does not compensate for the harm to the Green Belt that would be caused by the extension.
10. In conclusion, I find that the considerations put forward by the appellants do not clearly outweigh the harm to the Green Belt that would be caused by the proposal, and that there are, therefore, no very special circumstances to justify this inappropriate development. The proposal would also conflict with policies GBC1 and ENV5 of the East Herts Local Plan Second Review, which relate to extensions to buildings in the Green Belt and extensions to dwellings outside of settlements.

*J Westbrook*

INSPECTOR

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## Appeal Decision

Site visit made on 1 October 2013

**by Mr Kim Bennett BSc DipTP MRTPI**

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

**Decision date: 9 October 2013**

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**Appeal Ref: APP/J1915/D/13/2202257**

**7 Church Walk, Sawbridgeworth, Hertfordshire, CM21 9BJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Emily Mirrams against the decision of East Hertfordshire District Council.
  - The application Ref 3/13/0385/FP, dated 4 March 2013 was refused by notice dated 16 May 2013.
  - The development proposed is first floor rear extension, front porch extension and alterations.
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### Decision

1. The appeal is allowed and planning permission is granted for a first floor rear extension, front porch extension and alterations at 7 Church Walk, Sawbridgeworth, Hertfordshire CM21 9BJ in accordance with the terms of the application, Ref 3/13/0385/FP, dated 4 March 2013, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: JJ-0007.
  - 3) The materials to be used in the construction of the external surfaces of the development shall match those of the existing building.
  - 4) The windows of the rear first floor en suite and bathroom as shown on drawing No JJ-0007, shall be obscure glazed at all times.

### Main issue

2. The main issue is the effect of the proposal on the character or appearance of the appeal property and the wider area.

### Reasons

3. The appeal property comprises a semi detached house which was originally designed with a prominent gable feature to the front and dormer windows providing light to accommodation in the roof space. At the rear it has been extended with a part single part two storey extension. The gable feature to the front has been replicated, together with a further first floor element and a single storey flat roofed extension. The adjoining semi detached house, No 9, has also been extended with a first floor cat slide extension. The result of the above

gives rise to an unbalanced architectural appearance at the rear of the two properties.

4. The property has a long rear garden but is well screened from views beyond by dense foliage of mature trees. From elsewhere, the rear of the property is not apparently open to public views from any vantage point.
5. The Council is concerned that the proposed extension, by spanning the full width of the property and with a dual pitched roof, would not respond to the character of the building, in that it would dominate it and not relate well to the original roof form. Similar concern is raised in connection with the proposed flat roof element at first floor level.
6. Whilst the extension would be imposing and would undoubtedly change the character of the host building, there are a number of factors which weigh in its favour. Although large in relation to the original building, the proposed extension would not extend beyond the existing ground floor extension and would introduce symmetry at the rear of the building where currently there is none. Although it would unbalance the rear relationship with No 9, that situation already exists. The flat roofed element would be no greater in size than the existing flat roof, albeit at first floor level, and by being positioned between the two pitched roof elements, would only be visible from within the appellant's rear garden.
7. In addition to the concern above, the Council also considers it is harmful to the area. In this respect however, and as referred to above, I did not identify any public vantage point from which the extension would be visible and on the contrary I note that the Council's officer report considers the proposal would be well screened from public vantage points. The Council has not identified any concerns in relation to impact to either adjoining property and having regard to all the above considerations, I consider that the character of the area would not be harmed as a result.
8. The site adjoins the Sawbridgeworth Conservation Area and I have had special regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in terms of its setting. The site also adjoins the Grade 1 Listed Great St. Mary's church and I have therefore also had regard as to whether the setting of that building would be adversely affected. The Council has not raised any objections in both respects; a view I agree with given the long rear garden and the strong tree screen to the rear of the site which results in a lack of intervisibility between the site, the Conservation Area and the church. There would therefore be no harm to the significance of the heritage assets.
9. For the above reasons, the proposed development would be in accordance with Policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review April 2007, in that the character and appearance of the area and local amenity would not be affected and the flat roof element would be visually acceptable in this instance.

### **Other Matters**

10. Occupiers of the neighbouring property have expressed concerns in respect of loss of privacy, light and the structural integrity of the property. In respect of loss of light I agree with the Council that given the location of the appeal property to the north of No 9 and the impact of the existing extension, any loss



of light would not be significant. The nearest rear facing windows would serve bathrooms and it is likely that they would be obscure glazed. A condition would secure that for the avoidance of doubt. The bedroom window would be rear facing only and would not cause any loss of privacy in my view. Any matter relating to the structural integrity of the existing extensions would be addressed at building regulation stage.

11. Included within the proposal is a front porch. I note that the Council raises no objections in that respect and for the avoidance of doubt I have had regard to that element of the proposal and agree with the Council's view.
12. The Council makes reference in its officer report to advice from the Hertfordshire Biological Records Centre in relation to roof alterations and the potential need for a bat survey. However, there is no specific evidence before me in that regard.

### **Conclusion**

13. For the above reasons the proposed development would not harm the character or appearance of the appeal property or the wider area. The appeal should therefore succeed.
14. Conditions relating to the development being carried out in accordance with the approved plan and for matching materials to be used, are necessary in the interests of good planning. A condition requiring the windows of the rear first floor bathrooms to be obscure glazed is necessary in the interests of safeguarding privacy for the occupiers of the adjoining property.
15. The Council has not recommended any particular condition in relation to ecological issues, and I have therefore not considered it necessary to impose one.

*Kim Bennett*

INSPECTOR