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# Appeal Decision

Site visit made on 13 November 2012

by **Clive Tokley MRTPI**

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

Decision date: 3 December 2012

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**Appeal Ref: APP/J1915/A/12/2175811**

**Blue Cross House, 1 The Street, Braughing, Ware SG11 2QE.**

- 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 Ann Joyce against the decision of East Herts Council.
  - The application Ref 3/11/2173/FP, dated 19 December 2011, was refused by notice dated 9 February 2012.
  - The development proposed is the erection of a new dwelling, alterations to the vehicular access and alterations to the rear of and amenity space of Blue Cross House.
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## Decision

1. The appeal is dismissed.

## Main Issue

3. The Council has raised no objections to the alterations to the vehicular access and Blue Cross House that arise from this proposal. I have no reason to dissent from this view. The main issue is whether the proposed new dwelling would preserve or enhance the character or appearance of the Braughing Conservation Area (CA).

## Reasons

4. Blue Cross House lies within the village boundary of Braughing where the policies of the East Herts Local Plan Second Review of April 2007 (LP) indicate that there is no objection to the principle of residential development. The appeal site is on rising land to the east of the picturesque ford and green and it includes Blue Cross House and its grounds and part of the garden of No 1 Church End. In this part of the CA the development is loose knit with small groups of buildings separated by undeveloped areas. Blue Cross House and the adjacent cottages (1 and 2 Church End) form a group with the Methodist Church. The cluster of buildings is completed by a number of outbuildings to the north of the appeal site that are associated with Causeway House, which lies some distance to the north fronting Church End.
  5. As a result of the space between the buildings on the site and the open character of the gardens of 1 and 2 Church End the proposed dwelling would be in view from The Street and Church End. The proposed dwelling would be of
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an unfussy design finished in traditional materials; however the building would be taller and bulkier than the nearby outbuildings. The new dwelling would disrupt the clear hierarchy of buildings within this part of the CA where the larger principal buildings are closer to the road with ancillary structures at the rear. In contrast to the generally spacious pattern of development in the vicinity I consider that the proposal would appear to be squeezed in at the rear of the site. I consider that the proposed dwelling would be an incongruous element in the CA that would neither preserve nor enhance its character or appearance.

6. The proposal would therefore conflict with Policies HSG7 and ENV1 of the LP which seek to ensure that housing development is of a high standard of design that is compatible with the character of its surroundings. It would also conflict with LP Policy BH6 which indicates that new developments within CAs should be sympathetic to the character and appearance of the area or of such a high quality as to enhance the area. Whilst the LP pre-dates the National Planning Policy Framework by about 5 years the aims of those policies are consistent with the core planning principles of the Framework which indicate that planning should always seek to ensure high quality design and should conserve heritage assets, in this case the CA. I therefore give those policies full weight.
7. The appellant draws attention to the 1897 map which shows a building of a similar footprint to that proposed which appears to have been attached the rear of the church. However this is a two-dimensional representation of a building that was about 20m south of the site of the proposal. That building is long gone and there is no evidence of its height, design or use. I have noted the appellant's references to buildings else where in the village and further afield and her references to proposals that replaced previous buildings. However this proposal must be determined on its own merits and nothing that I have read and seen in relation to those developments convinces me that this proposal would not be harmful to the CA.
8. The Framework refers to the importance of addressing the connection between people and places when seeking to secure high quality inclusive design and I have noted the appellant's connections with Blue Cross House that extend back over four generations; however neither those connections nor the absence of objection from the Parish Council are sufficient to outweigh the harm to the CA that would result from the proposal.
9. Whilst the changes to Blue Cross House would result in some limited improvement they are not reliant upon the construction of the proposed new dwelling and any improvements would be far outweighed by the harm to the CA as a result of the dwelling.

#### *Other matters*

10. The appellant is critical of the Council decision to refuse permission using its officer delegated powers; however the procedures of the Council are not matters for my consideration.

#### **Conclusion**

11. In the context of the Framework I consider that the proposal would result in "less than substantial" harm to the heritage asset; however I consider that the

harm would not be outweighed by public benefits. Taking account of all matters I have concluded that the proposed dwelling would neither preserve nor enhance the character or appearance of the Braughing Conservation Area and that the appeal should not succeed.

*Clive Tokley*

INSPECTOR

## Appeal Decision

Site visit made on 30 September 2013

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

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

Decision date:- 12 December 2013

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**Appeal ref:- APP/J1915/X/12/2187287**

**"The Sidings", Spellbrook Lane East, Spellbrook, Bishop's Stortford, Herts, CM22 7SE**

- 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 Stephen Milton against the decision of East Hertfordshire District Council.
- The application, Ref:- 3/12/0772, dated 3 May 2012, was refused by notice dated 25 July 2012.
- The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
- The development for which a lawful development certificate (LDC) is sought is use as dwellinghouse within Use Class C3(b) of the Schedule to the Town & Country Planning (Use Classes) Order 1987 – up to six people living together as a single household and receiving care.

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

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### Preliminary Matters

1. I have taken into account the LDC issued by Harlow Council on 18 June 2013 for use of 5 Ladyshot, Harlow, Essex as a children's home with six or less residents, and letters from the local planning authority dated 22 October 2013 and from the appellants dated 2 November 2013 responding to the Planning Inspectorate's letter of 2 October 2013.

### Main Issue

2. I consider that the main issue is whether the proposed use of a dwelling house by up to six people living together and receiving care would be lawful. This determination is made only on matters of fact. The planning merits of the development shown within the application do not fall to be considered and play no part in my decision on this appeal.

### Reasons

3. 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 premises consist

of a detached bungalow on the north side of Spellbrook Lane East to the west of a level crossing of the main London Liverpool Street to Cambridge and Stansted Airport railway line between Sawbridgeworth and Bishop's Stortford stations. At the time of my inspection of the site the dwelling comprised a living room, kitchen, bathroom and four bedrooms on the ground floor with a bedroom and bathroom at first floor level in the roofspace and rear facing dormer. It is adjoined by commercial premises grouped around a concreted yard.

4. Use class C3(b) is defined within Class C3. "Dwellinghouses" in the Schedule to the Town & Country Planning (Use Classes) Order 1987 (UCO). Classes C3(a) and (b) are set out as follows:-  
*"Use as a dwellinghouse (whether or not as a sole or main residence) –*  
*(a) by a single person or by people living together as a family, or*  
*(b) by not more than 6 residents living together as a single household (including a household where care is provided for residents)..."*
5. Article 2 of the UCO states that in this Order, unless the context otherwise requires, "care" means personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment.
6. I am satisfied that the building I saw on my inspection of the site on 30 September 2013 was being used for purposes that fall within Use Class C3(a), use as a dwellinghouse by people living together as a family, and I have no reason to doubt that that is the building's lawful use. It was the purpose it was designed for.
7. If the proposed use falls within Use Class C3(b) then no material change of use will be involved, the appeal will succeed and a LDC will be granted. In that context, it must be stressed that the application that was made, and the appeal that was lodged, were based solely on the premise that the use falls within Use Class C3(b). If it transpires that what is envisaged at "The Sidings" is not materially different from a Class C3(a) use, so that planning permission is not required in any event, it would be wrong to issue a LDC for a proposed C3(b) use to cover that possibility.
8. The local planning authority advances a number of reasons why the use cannot be regarded as falling within the limitations imposed Use Class C3(b). Consequently, these need to be examined in some detail. Probably the most important of these is the matter identified in the first reason for refusal which can be broadly summarised as "Can two care workers, who live on and off the premises but are resident overnight during their shifts, together with the three permanent children residents, overall constitute 'not more than six residents living together as a single household'?"
9. In reaching a conclusion on that matter, I have the benefit of the judgement of Mr Justice Collins in *North Devon District Council v First Secretary of State* [2003] EWHC 157 (Admin). The local planning authority quotes extensively from the judgement in its appeal statement, where it seems to me there are

striking similarities between the two cases. However, before looking at the implications of the judgement on my final decision it is important to flag up the differences.

10. Most notably, although *North Devon* concerned a LDC appeal, it was one made under section 191(1)(a) of the amended 1990 Act i.e. the use was already in place and the appellants had to show ten years of continuous use (or four years if considered use as a single dwelling) to demonstrate lawfulness. It was not an appeal where Use Class C3(b) was a proposal under section 192(1)(a) as in this instance.
11. Taking that into account in regard to the matter identified in paragraph 8, Collins J was unambiguous. He stated:- *"The question then arises whether carers who do not live but who provide, not necessarily through the same person, a continuous 24-hour care can be regarded as living together. In my view, the answer to that is no."*
12. Turning to whether the permanent children residents could constitute a household as defined by Class C3(b), Collins J was equally clear cut. *"Children need to be looked after. They cannot run a house. They cannot be expected to deal with all of the matters that go to running a home... It seems that in the context 'household' means more than merely the bodies. You have to consider whether the bodies are capable of being regarded in the true sense as a household."*
13. Taking all of this on board it seems clear to me that, applying Mr Justice Collins precepts from *North Devon*, the appellant's arguments that the operation proposed at "The Sidings" would fall within Class C3(b) cannot succeed. The constantly changing supervising adults cannot be considered part of a household. For a household to be created there would need to be at least one permanent adult living on the premises with the children.
14. He or she need not be the same person throughout the children's stay on the premises. Staff will come and go but if a particular staff member were assigned to these premises and was permanently designated to the proper supervision of the children then it would seem to me that the terms of Class C3(b) would be satisfied. Backed up by judicial authority, in the absence of this important criterion being met by the operation proposed for "The Sidings", the whole LDC appeal must fail.
15. Three other reasons for refusal were given by the local planning authority. As I find the first reason fatal to the grant of the LDC, I do not consider it necessary to spend much time commenting on these. Suffice it to say that in comparison with the first reason for refusal, I do not find the question of high staff/child ratios and the alleged institutional nature of the use especially convincing in determining whether or not the use falls within or outside the relevant use class. Part use of rooms as offices are a common feature of domestic premises, whether used in connection with a household supervised by carers or more conventional dwellinghouses.
16. Lastly, I have to comment on the Harlow Council decision to grant a LDC for a Use Class C3(b) use to another of the appellant's operations, which is said to be identical to "The Sidings" proposal. There is a need for consistency for similar decisions, which is why I thought long and hard before coming to my

final conclusions on this matter. All that I can say is that I find it very difficult to reconcile Harlow Council's decision to issue a LDC with Mr Justice Collins lucid judgement in *North Devon*.

17. Accordingly, the use of "The Sidings" by the constant changing of adult supervisors of three permanent child residents would not constitute a single household of not more than 6 persons. It would thereby fall outside the ambit of Use Class 3(b) of the Schedule to the Town & Country Planning (Use Classes) Order 1987. As a consequence, the proposed use requires planning permission and the refusal of the Council to grant a lawful development certificate was well founded.

**Formal decision**

**Appeal ref:- APP/J1915/X/12/2187287**

18. The appeal is dismissed.

*Ian Currie*

INSPECTOR

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## Appeal Decision

Site visit made on 26 November 2013

by **Mr Keri Williams BA MA MRTPI**

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

Decision date: 17 December 2013

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**Appeal Ref: APP/J1915/E/13/2198080**

**The Cat and Fiddle, Braughing, Ware, Hertfordshire, SG11 2QX**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr I Bagster against the decision of East Hertfordshire District Council.
  - The application Ref.3/13/0120/LB, dated 15 January 2013, was refused by notice dated 21 March 2013.
  - The works proposed are a single storey oak framed garden room extension.
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### Decision

1. I allow the appeal and grant listed building consent for a single storey oak framed garden room extension at The Cat and Fiddle, Braughing, Ware, Hertfordshire, SG11 2QX in accordance with the terms of the application Ref.3/13/0120/LB, dated 15 January 2013, and the plans submitted with it subject to the conditions set out in the Schedule attached to this decision.

### Main Issue

2. The main issue is whether the proposed extension would preserve the special architectural and historic interest of the listed building.

### Reasons

3. The Cat and Fiddle is a detached house in the countryside outside the village of Braughing. It is a designated heritage asset, being listed at Grade II. Its significance includes its 17<sup>th</sup> century origins, with alterations later in the 17<sup>th</sup> century. The listing description also refers to a *"Timber frame on brick plinth. Plastered. Steep half-hipped roof now of pantiles. One and a half storeys"* The simple plan form of the original building is also of significance, although the plan form was altered by a substantial extension added in the early 1990's. It projects from the rear wall of the original part of the building. The building's significance is also enhanced by its setting in spacious gardens.
4. The proposed garden room would be seen in the context of the rear elevation and the existing extension. The considerable change to the original plan form resulting from earlier extension reduces the weight I give to the further change which would result from this proposal. The garden room would project from the existing extension, so that it would not impinge on the building's historic fabric. Nor would it affect the building's principal elevation, which faces south, or be seen in the context of that elevation. The extension would be about 4 m by



6 m, with a ridge height of about 5.4 m and an eaves height matching that of the existing building. It would have a small, lower level element linking the garden room to the existing kitchen. Having regard to its modest size and the setting of its ridge level below that of the building's main roof, it would not appear as an unduly dominant element. Its west elevation would also be set back a little from the west elevation of the historic part of the building. The proposed materials would include an oak frame and tiles to match the existing roof. Those materials would be sympathetic to the listed building.

5. Views of part of the original fabric of the rear elevation from the rear garden would be masked by the proposed garden room. However, in the context of the already extended rear elevation, the effect would not be sufficient to amount to material harm. The Cat and Fiddle is set in a spacious plot, with extensive trees and other planting, so that the extension would not be prominent from public viewpoints. Having regard to its scale, siting and design it would appear as a minor element in the building's setting and would not result in material harm to that setting.

### **Conditions**

6. Conditions concerning materials, window and door details and the making good of the building on completion of the extension are required in order to protect the building's architectural and historic interest. A further condition will ensure that the works are carried out in accordance with the submitted plans.

### **Conclusion**

7. Having regard to the above and to all other matters raised I find that the proposed extension would not result in material harm to the architectural and historic interest of the Cat and Fiddle, which would be preserved. The proposal would not conflict with policies for the conservation of heritage assets set out in the National Planning Policy Framework (The Framework). Listed building consent should be granted.

*K Williams*

INSPECTOR

### **Schedule of Conditions**

1. The works hereby authorised shall begin not later than three years from the date of this decision.
2. The works hereby authorised shall be carried out in accordance with the following plans: 10/012/2013, 10/013/2013, 10/014/2013, 10/015/2013, 10/016/2013 and 10/017/2013.
3. Prior to any building works being commenced samples of the external materials of construction of the works hereby authorised shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved materials.
4. Prior to any building works being commenced, detailed drawings of any new or replacement windows which are to be installed, including, where applicable, a section of the glazing bars and frame moulding, details of the position of the window frame in relation to the wall, depth of reveal, arch and sill detail shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
5. Prior to any building works being commenced, detailed drawings including sections, showing any new or replacement doors which are to be installed, together with a detailed specification, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
6. All new or replacement rain water goods to be installed as part of the works hereby authorised shall be in black painted cast iron.
7. Following completion of the works hereby authorised, all making good of the existing building shall be carried out in materials which closely match those used in the existing building.



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## Appeal Decision

Site visit made on 3 December 2013

by **G M Garnham BA BPHIL MRTPI**

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

Decision date: 9 December 2013

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**Appeal Ref: APP/J1915/D/13/2206461**

**1 Home Farm Cottages, Hunsdon Road, Stanstead Abbots, Ware, Hertfordshire, SG12 8LJ**

- 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 Christopher Altoft against the decision of East Hertfordshire District Council.
  - The application Ref 3/13/0384/FP was refused by notice dated 20 August 2013. The development proposed is a two storey infill between garage and main dwelling.
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### Decision

1. The appeal is dismissed.

### Main issues

2. I consider that these are:

Whether the proposed development would be inappropriate development for the purposes of the National Planning Policy Framework and development plan policy;

Whether harm would arise with respect to the openness, character and appearance and purposes of the Green Belt; and

Whether any harm arising from inappropriateness or any other harm would be clearly outweighed by other considerations and, if so, whether very special circumstances will exist such as to justify the giving of planning permission.

### Reasons

3. The proposed two storey infill would be between an existing and previously extended house and a detached garage. This was built alongside the house, in materials and styling to match.

### ***First main issue – whether there would be inappropriate development***

4. The appeal site is in the Green Belt. Paragraph 87 of the National Planning Policy Framework says that “as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”. Paragraph 89 says that the construction of new buildings in the Green Belt should be regarded as inappropriate development. The specified exceptions to this stipulation include

“the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building”.

5. The appellant has not materially challenged the Council's dimensions for the development. These are that the original house was approximately 88 square metres in size. The previous extension and the garage amount to 169 square metres. I estimate this represents an increase of over 190%. The present proposal is for a further 24 square metres, which would add 27% to the original floorspace. This would be a relatively modest addition, but it needs to be considered cumulatively, along with previous enlargements. Also, by physically joining together the extended house and its garage, the total width of the building on the site would become 22 metres. This compares with the width of the original house of 6 metres.
6. The local development plan pre-dates the Framework but seems to be consistent with it in relation to extensions in the Green Belt. Policy GBC1 in the East Hertfordshire Local Plan Second Review (2007) says that the construction of new buildings in the Green Belt will be inappropriate, unless for certain specified purposes that include limited extensions to or alterations of existing dwellings in accordance with Policy ENV5. Policy ENV5 says that such changes to dwellings will be expected to be of a scale or size that would either by itself, or cumulatively with other extensions, not disproportionately alter the size of the original dwelling.
7. Neither national nor local planning policy give a definition of “disproportionate”. The proposal is modest by itself, but cumulatively would more than double the residential floorspace of the original dwelling. Moreover, the cumulative outcome would be a single building of much greater size than the original one.
8. Accordingly, I conclude that the proposal would represent a disproportionate addition to the original dwelling that would be inappropriate development for the purposes of the National Planning Policy Framework and the development plan policies referred to. As such it would be harmful by definition to the Green Belt.

### ***Second main issue – effect on the Green Belt***

9. I am told that the appeal site is near the edge of the Green Belt. The link extension would not be visible from any public vantage points as a result of very high, evergreen screen planting along the road frontage. The design, form and materials would be generally in keeping with the character and appearance of the existing buildings. The enlarged house would sit comfortably within its plot and remain within a cluster of buildings that include houses as well as non-residential uses. It would however be very significantly larger than the other half of the original pair, no.2, which also has a side extension although in a different form to that on the appeal site.
10. In so far as openness means the absence of buildings, the proposal would have a small negative effect on the openness of the Green Belt. There would be no material harm with respect to the purposes of Green Belts as set out in paragraph 80 of the Framework.
11. I conclude that the proposal would give rise to limited harm with respect to the openness of the Green Belt but would have little material effect on the rural qualities of the surrounding area or the purposes of the Green Belt.

***Third main issue - whether very special circumstances exist***

12. Decision makers are required to ensure that substantial weight is given to any harm to the Green Belt. I have found that there would be harm by way of inappropriateness, to which would be added limited harm with respect to the openness of the Green Belt. The very special circumstances under which planning permission may be given will only exist if the potential harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. This balancing process normally requires that the proposal should give rise to positive benefit, not just an absence of harm.
13. The appellant says that his proposal would not be inappropriate development, but nonetheless supports his case with respect to very special circumstances. The main argument seems to be that the proposal would not radically alter the existing situation; it would be a sympathetic addition in terms of design and materials; it would not intrude into openness; and it would have very little effect on the overall openness of the Green Belt. In addition, the appellant is a local businessman who seeks a modest increase to the size of his house in order to improve the standard of accommodation for his family. Reference was also made to a previous appeal, ref APP/J1915/A/08/2065564, dated 1 July 2008. This concerns the change of use of a small section of the existing garage to residential use. As such I consider that it is of little direct relevance to the present proposal.
14. The appellant has also drawn attention to a recent legal case. This appears to be a Draft Judgement on an application by a Mr M Wildie for the judicial review of a decision of Wakefield Metropolitan District Council regarding the grant of planning permission in respect of land in the Green Belt. The copy provided is headed "IN CONFIDENCE" and I am not sure to what extent it can be used. However, in so far as the Judge's comments at paragraph 29 regarding very special circumstances summarise established case law, I am not persuaded that they add significant weight to the consideration of this appeal.
15. Whilst I understand the appellant's case, I find that the arguments in favour of the proposal do not weigh materially against the harm I have identified, and add nothing substantial by way of public benefit. The harm has not been shown to be clearly outweighed by other considerations. As a result, very special circumstances have not been demonstrated to exist.

***Overall conclusion***

16. Although the proposal would be in keeping with, and subservient to, the existing property, it is the size of the original building to which regard must be had in terms of Green Belt policy. Consequently, and bearing in mind that substantial weight is to be given to any harm to the Green Belt, I conclude overall and on balance that the proposal would give rise to unacceptable harm in the Green Belt. It would be contrary to well established policy in the Framework and the local plan, as reasoned above. This harm is intrinsic to the proposal and would not be overcome by the imposition of planning conditions.
17. Planning permission should therefore be withheld and the appeal dismissed.

*G Garnham*

INSPECTOR



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## Appeal Decision

Site visit made on 22 November 2013

by **Grahame Gould BA MPhil MRTPI**

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

Decision date: 2 December 2013

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**Appeal Ref: APP/J1915/D/13/2205822**

**Gilscroft, Broadfield, Bishops Stortford, Hertfordshire, CM23 2JA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Tracey Doble against the decision of East Hertfordshire District Council.
  - The application Ref 3/13/0576/FP was refused by notice dated 18 July 2013.
  - The development proposed is two storey extensions and alteration to the rear of existing garage.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Council unilaterally altered the description of the proposed development to 'one and half storey rear extension'. I am satisfied that the appellant's original description adequately describes the appeal scheme and I have therefore adopted that for the purposes of my decision.
3. The decision date recorded on the Council's decision notice is 18 January 2013, which pre-dates the submission of application 3/13/0576/FP. The Council has advised the appellant that the correct date of decision should have been 18 July 2013 and I am satisfied that this administrative error does not affect the validity of the appeal before me.

### Main issue

4. The main issue is the effect of the proposal on the character and appearance of Gilscroft and Whitehall Lane.

### Reasons

5. Gilscroft is a detached chalet bungalow, with attached double garage, which has been subject to roof alterations to provide additional first floor habitable accommodation. Gilscroft is situated within a close, Broadfield, of five individually designed dwellings and it presents its rear elevation to Whitehall Lane. Whitehall Lane is a single carriageway width, unmade, street, providing access to a number of dwellings to the south west, which front directly onto this street. During the course of my site visit I observed that Whitehall Lane was used by a number of motorists and pedestrians and it is therefore apparent that it is a street used as a thoroughfare by members of the public.

I therefore consider the rear of the appeal property to be in the public domain.

6. The appeal proposal would involve the construction of an extension to the rear of the property's double garage, which it is proposed would incorporate: a guest bedroom, utility room and shower room at ground floor level; and a master bedroom, with en-suite, and a second en-suite bathroom to serve an existing bedroom at first floor level. The proposed first floor accommodation would be in part housed within two gable ended features within the newly formed roof area, which would project at right angles to the main roof's east/west axis. The proposed gables would be linked with one another and an existing centrally located gable by flat roofed dormers. The rear facing cheeks to the dormers would be set back in the region of 1.1 metres from the vertical faces to the proposed gables and would be clad in tiles to match the property's main roof.
7. I understand that planning permission for a proposed ground floor extension with first floor accommodation housed within its roof area has been granted. However, the appellant considers that the previously approved roof accommodation would provide an unsatisfactory level of useable space, in terms of headroom, and has put forward the appeal scheme as a means of attaining more useable first floor space. As part of my site visit I inspected some of the first floor accommodation to gauge for myself the availability of headroom.
8. It is evident from the planning history for Gilscroft that the Council does not object to the principle of it being extended and in respect of the appeal scheme, it appears unconcerned by the general scale of the proposed extension. The Council's objection relates to the appearance of the proposed linking dormers and I share this concern about the poor design the resulting roof form would have.
9. Allowing for Gilscroft's rear boundary treatment and the choice of external materials, I find that the combined gable and dormer roof form would have a bulky and incongruous design. The appeal scheme would therefore be harmful to the appearance of Gilscroft and the wider streetscene, with this development clearly being visible from Whitehall Lane, particularly from the south west. In this respect I do not find the appellant's photographic evidence persuasive. The proposed roof form would appear as being very alien to that found at the western end of the appeal property and would therefore have an unbalancing affect, which would only serve to highlight the incongruity of the appearance of the proposed roof form.
10. While I am mindful of the existing head height concern relating to the adjoining gable roof area, I do not find the appellant's wish to create more useable space to be sufficiently compelling to outweigh the harmful effects the appeal proposal would have upon the appearance of the appeal property and the streetscene. The appellant has referred to the possibility of the farmland to the north of Gilscroft being developed for housing. In the absence of any details concerning this adjoining scheme being provided, I cannot comment on what significance it might have for the appeal proposal before me. However, I am in any event required to consider this appeal on its individual merits.

11. The absence of objections from the occupiers of neighbouring properties is not something that I find to either weigh in favour of or against the appeal scheme.
12. I conclude that the appeal scheme would be harmful to the character and appearance of Gilscroft and Whitehall Lane. The proposed development would therefore be in conflict with the objectives of policies ENV1, ENV5 and ENV6 of the East Herts Local Plan 2007, which amongst other things require all development, including roof dormers, to be of a high standard of design and complementary to the design of the original building and its surroundings. I find these policies to be consistent with the guidance contained within paragraph 58 of the National Planning Policy Framework.
13. For the reasons given above I conclude the appeal should be dismissed.

*Grahame Gould*

INSPECTOR



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## Appeal Decision

Site visit made on 19 November 2013

by **S Stevens BSc (Hons) MSc DipTP DMS MCMi MRTPI**

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

Decision date: 3 December 2013

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### **Appeal Ref: APP/J1915/D/13/2206021**

### **67 The Stewarts, Bishops Stortford, Hertfordshire, CM23 2NU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs A Tant against the decision of East Herts Council.
  - The application Ref 3/13/0751/FP, dated 1 May 2013, was refused by notice dated 4 July 2013.
  - The development proposed is proposed extensions and alterations.
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### **Decision**

1. The appeal is allowed and planning permission is granted for proposed extensions and alterations at 67 The Stewarts, Bishops Stortford, Hertfordshire, CM23 2NU in accordance with the terms of the application, Ref 3/13/0751/FP, dated 1 May 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 materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 3) Demolition or construction works shall not take place outside 0730 hours to 1800 hours Mondays to Fridays and 0730 hours to 1300 hours on Saturdays nor at any time on Sundays or Public Holidays.

### **Main Issue**

2. The main issue is the effect of the proposed development on the character and appearance of the area.

### **Reasons**

3. The appeal site is located on a corner plot and it contains a bungalow. The site is within a residential area comprising predominantly two storey detached houses in a variety of designs and many have been extended.
4. The proposal is to extend the property to the front and northern side and to increase the roof height by just over 3 metres to create a first floor. The resultant two storey dwelling would have a hipped roof.
5. The Council acknowledges the principle of extending the dwelling is acceptable in this location and that there is no limit on the size of extensions that may be allowed. Whilst the proposal would be a significant change to the existing

dwelling the Council also accepts the design reflects that of the existing bungalow and the hipped roof would help reduce the bulk of the proposed dwelling. Since the nearby area contains a variety of house designs with no distinctive features I am of the opinion the proposed design is acceptable. Furthermore, the Council acknowledges the proposal would not harm the living conditions of the occupants of nearby properties.

6. Existing properties in the area are built so they are set back from the site frontage and many have parking in front of the house. The properties adjacent to the appeal site are each stepped back from each other by approximately 1 metre. The proposal includes a front extension but this would not project in front of the existing front wall of the property and it therefore would retain the existing stepped building line and space in front of the property.
7. The proposed extension to the northern side of the property would result in the property being just over 1 metre from the site boundary that abuts an offshoot of The Stewarts that forms a small cul-de-sac between Nos 67 and 10. No 10 has been extended with a 2 storey extension that is about 2 metres from its side boundary.
8. The proposal would reduce the distance between the 2 properties sited either side of the entrance to the cul-de-sac but there are existing high fences or walls around the site boundaries of both properties that already narrows the appearance of the entrance to the cul-de-sac. The existing properties in the cul-de-sac are set back from their frontage but the proposed development would be some distance from No 69 which lies to the rear of the appeal site. The proposal would not adversely affect the appearance or character of the cul-de-sac.
9. Whilst the proposal would be more visible when travelling along The Stewarts I do not consider a 2 storey building would appear out of character in the area. Furthermore, whilst the gap between Nos 67 and 10 would be reduced this would only be visible when viewed from the opposite side of the entrance to the cul-de-sac or from a short distance either side.
10. I have had regard to the issues raised by a third party regarding the size of the proposed development and the loss of the last bungalow on the road. I have dealt with the size of the proposed development above and the Council has not raised any concerns regarding the loss of a bungalow and I see no reason to disagree.
11. Having considered all matters raised I conclude the proposal would not be detrimental to the character or appearance of the area. The proposal would therefore comply with Policy ENV1 of the East Herts Local Plan Second Review which seeks to ensure new development amongst other criteria is of a high quality, reflects local distinctiveness and respects the amenity of occupiers of neighbouring properties.

### *Conditions*

12. I have considered the conditions suggested by the Council having regard to the advice in Circular 11/95<sup>1</sup>.
13. In addition to the standard time limit a condition requiring the external materials used for the development to match the existing building is necessary to ensure

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<sup>1</sup> Circular 11/95: Use of conditions in planning permission

the development provides a satisfactory appearance. To protect the occupants adjoining properties from noise and disturbance during construction a condition restricting the time construction work can be carried out on the site is necessary.

**Conclusion**

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

*Sarah Stevens*

INSPECTOR



## Appeal Decision

Site visit made on 12 November 2013

by **T Cannon BA(Hons) DipTP MRTPI**

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

Decision date: 29 November 2013

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**Appeal Ref: APP/J1915/D/13/2206171**  
**13 Magnolia Close, Hertford, SG13 7UR**

- 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 Sam Hill against the decision of East Hertfordshire District Council.
  - The application Ref 3/13/1172/FP was refused by notice dated 29 August 2013.
  - The development proposed is for a two storey side extension.
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### Decision

1. The appeal is dismissed.

### Main Issue

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

### Reasons

3. The appeal site is located in a cul-de-sac of houses built to a relatively high density. In many cases there are relatively small gaps between properties, however, the layout has been designed to maintain a sense of separation which helps contribute to a pleasant residential environment. On certain plots, including the appeal site, where two properties are relatively tightly spaced, attached single storey garages are positioned to the side of the dwellings and set back from the main elevation. This helps break up the mass of built form by introducing a lower element between two storey properties.
4. The proposed extension would extend both above and forward of this garage. Although the extension would still retain a degree of set back from the principle elevation, and the ridge line finish below that of the existing house, the gap between the new flank wall and its neighbour would be reduced to about a metre. This would result in the appeal site and No 14 Magnolia Close appearing to be crammed together, detracting from the visual appearance of the street scene. The position of the appeal property forward of No 14 would increase this impact, particularly from views up the cul-de-sac towards the site.
5. Consequently, the proposed extension would have a materially harmful impact on the character and appearance of the area. It would therefore be contrary to Policies ENV1, ENV5 and ENV6 of the Saved East Herts Local Plan Second Review 2007 (Local Plan) in particular which seeks to ensure that sufficient space is retained between properties to safeguard the character of the area. These objectives are broadly consistent with the principles of the National

Planning Policy Framework (the framework) that planning should seek to secure high quality design.

6. The appellant has made reference to similar extensions that have been permitted to other properties in Magnolia Close. I observed that No 17 Magnolia Close is a similar house type to the appeal site. However, this property is located at the end of a row of houses with the extension situated alongside the access road serving properties at the end of Magnolia Close. Unlike the appeal proposal, this extension does not close a small gap between two properties.
7. Reference is also made to No 5 Magnolia Close recently having approval for a two storey side extension. No 5 is a detached property on the opposite side of Magnolia Close to the appeal site. No details have been provided of this extension. However, it is not directly comparable to the appeal proposal due to No 5 being a different style of property. In any case, I cannot agree that it would be in the public interest to allow a harmful form of development on the grounds that a similar extension was permitted elsewhere.
8. For the reasons set out above, I conclude that the appeal should be dismissed.

T Cannon

INSPECTOR



## Appeal Decision

Site visit made on 12 November 2013

**by T Cannon BA(Hons) DipTP MRTPI**

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

Decision date: 21 November 2013

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**Appeal Ref: APP/J1915/D/13/2206015**

**Yew Cottage, 7 Warren Park Road, Hertford, Herts , SG14 3JA**

- 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 J Cullip against the decision of East Hertfordshire District Council.
  - The application Ref 3/13/1256/FP was refused by notice dated 6 September 2013.
  - The development proposed is a detached double garage with studio room above.
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### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs was made by Mr J Cullip against East Hertfordshire District Council. This application is the subject of a separate Decision.

### Main Issue

3. The main issue in this case is whether the development would preserve or enhance the character or appearance of the Hertford Conservation Area.

### Reasons

4. The appeal site consists of a dormer bungalow occupying an elevated position on Warren Park Road. This area is characterised by wide tree lined streets and large properties, set in generous plots, with landscaped frontages. Such features create a sense of spaciousness, which defines the character and appearance of this part of the Hertford conservation area. The large Locust tree, positioned at the front of the site is of significant amenity value. It makes a positive contribution to the character and appearance of the conservation area. The Council have confirmed that, subject to appropriate landscaping conditions, this tree would not be adversely affected by the proposal.
5. Saved Policy ENV1 of the East Herts Local Plan Second Review 2007, requires new development to be of a high quality design and layout which is compatible with the structure and layout of the surrounding area. In conservation areas saved Policy BH6 describes how new development should be sympathetic in scale, height, proportion, form, materials and siting to the general character and appearance of the area. These objectives are broadly consistent with the principles of the National Planning Policy Framework (the Framework) to secure high quality design and make a contribution to local character and distinctiveness.

6. The proposed garage building would be situated forward of the main house, on higher ground adjacent to the site access. It would measure 6.5m by 6.4m and have a maximum height of 5.6m. The change in levels reduces the effectiveness of the low boundary treatments along the site frontage, with the land clearly visible from the main road. The low entrance gates, and visibility splays on either side of the main access, further open up this part of the site to public view along Warren Park Road. Although views of the garage to the east would be partially obscured by the mature Locust tree and existing landscaping on the neighbouring plot, the garage would be clearly visible from the west.
7. Properties along Warren Park Road generally, have undeveloped front gardens, with any structures being modest in size and set back from the road frontage. The proposed garage, due to its position forward of the appeal property, would therefore conflict with the structure and layout of the surrounding area. This impact would be increased, due to, the elevated position of the appeal site above Warren Park Road and the limited screening along the plot frontage. The scale of the garage and its orientation, with the gable end facing Warren Park Road adds to this harm. Consequently, the proposed garage would interrupt the undeveloped landscaped frontages, which create a sense of spaciousness and contribute positively to the character and appearance of this part of the Hertford conservation area. The garage would appear as a visually intrusive form of development failing to preserve or enhance the character or appearance of the Hertford conservation area. As such, it would be contrary to saved Policies ENV1 and BH6 of the Local Plan.
8. In the context of the Framework's policies a conservation area is a heritage asset. Where the harm to the conservation area would be less than substantial, that harm should be weighed against any public benefit from the proposal, including securing optimum viable use. It seems to me that the significance of this part of the conservation area lies mainly in the wide tree lined streets and landscaped frontages, which add to the impression of spaciousness. On this basis, I consider that the harm I have identified would fall within the category of 'less than substantial', meaning that it should be weighed against any public benefits associated with the development.
9. In the context of the Framework policies for good quality housing, improving accommodation is capable of being a public benefit. The development would provide improved accommodation for the appellant but that would not outweigh the harm to the conservation area.
10. My attention has been drawn to other examples of detached garages, positioned forward of properties in Warren Park Road. I was able to view these garages from the public highway during my site visit. It was evident, that these garages are positioned further back from the road frontage, and do not occupy such an elevated position as the appeal proposal. Consequently, they are not directly comparable to this case.
11. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

T Cannon

INSPECTOR



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## Costs Decision

Site visit made on 12 November 2013

**by T Cannon BA DIP TP MRTPI**

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

**Decision date: 21 November 2013**

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### **Costs application in relation to Appeal Ref: APP/J1915/D/13/2206015 Yew Cottage, 7 Warren Park Road, Hertford, Herts, SG14 3JA**

- 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 J Cullip for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of planning permission for a detached double garage with studio room above.
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### **Decision**

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

### **Reasons**

2. Circular 03/2009 (the Circular) advises that, irrespective of the outcome of an 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. With reference to paragraph B18 of the circular, the effect of a development on the character and appearance of an area is primarily a matter of judgement. Nonetheless, the Circular emphasises the importance of authorities providing realistic and specific evidence to support such reasons for refusal. In its delegated report, the Council make clear reference to, the two previous refusals on the site. It highlights how, the size of the garage has been reduced and its position amended. The officer also identifies the main issue, as the impact of the amended size of the garage, on the character and appearance of the conservation area. This demonstrates that the Council has clearly taken account of the changes made to the scheme.
4. It has also been suggested that the delegated report, fails to objectively analyse the development, in the context of, its setting and surroundings with the conclusions relying solely on the officers own subjective judgement. However, the report clearly appraises the character of the surrounding area and the impact the garage would have on it. Reference is made to the open nature of plot frontages, the elevated position of the site and the limited effectiveness of landscaping in screening the development.
5. Although reference to undeveloped and landscaped frontages may have been preferable to the term "open", the delegated report demonstrates a sufficient appreciation of the plot frontages and their contribution to the character and appearance of the conservation area. The Council was entitled to make a



planning judgement that the elevated position of the site and the limited effect of natural screening along the site frontage increase the proposals prominence from certain views.

6. The delegated report concludes that, having regards to such factors, the proposal due to its size and position would have an unacceptable impact on the character and appearance of the conservation area. It is not unreasonable for the officer to have reached such a conclusion when considering matters of judgement. Nor, has the Council's consideration of the application included vague, generalised or inaccurate assertions regarding the proposals impact. The absence of comments from the conservation officer does not alter the above conclusions.
7. Although the delegated report does not refer to the other examples of garages cited by the appellant, it does refer to the site visit revealing no similar garages. It is also unlikely that, had more detailed consideration been given to this matter, the Council would have reached a different decision in the planning application.
8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated. For the reasons given above, the application for an award of costs should not succeed.

T Cannon

INSPECTOR



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## Appeal Decision

Site visit made on 3 December 2013

by **G M Garnham BA BPhil MRTPI**

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

Decision date: 5 December 2013

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**Appeal Ref: APP/J1915/D/13/2207364**

**Ladygrove, Stanstead Road, Hunsdon, Ware, Hertfordshire, SG12 8PZ**

- 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 & Mrs M Sullivan against the decision of East Hertfordshire District Council.
  - The application Ref 3/13/1290/FP was refused by notice dated 19 September 2013. The development proposed is extension to conservatory & internal alterations to first floor of main dwelling; extension/conversion of existing garage, new raised roof to create a leisure facility with accommodation over with a glazed link to main dwelling; triple garage.
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### Decision

1. The appeal is allowed and planning permission is granted for an extension to conservatory and internal alterations to first floor of main dwelling, extension and conversion of the existing garage with a new raised roof to create a leisure facility with accommodation over with a glazed link to main dwelling, and a triple garage at Ladygrove, Stanstead Road, Hunsdon, Ware, Hertfordshire, SG12 8PZ in accordance with the terms of the application Ref 3/13/1290/FP, dated 16 July 2013, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: numbers 11257-S001, -S003, -S004, -P001-B, -P002-C, -P003-A & -P005.
  - 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the development 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.

### Main issue

2. I consider that this is the effect of the proposal on the character and appearance of the property and the surrounding area.

### Reasons

3. The appeal site lies in what is described as the 'Rural Area beyond the Green Belt' in the East Hertfordshire Local Plan Second Review (2007). Policy GBC3

defines appropriate development in this area. It says, among other things, that planning permission will not be given for the construction of new buildings other than limited extensions or alterations to existing dwellings in accordance with Policy ENV5. Policy ENV5 says that an extension to a dwelling or the erection of outbuildings will be expected to be of a scale and size that would either by itself, or cumulatively with other extensions, not disproportionately alter the size of the original dwelling nor intrude into the openness or rural qualities of the surrounding area.

4. Ladygrove is a very substantial detached country house built in the 1970s in the classical style. The main wing is symmetrically arranged around a central front door, with 2 main floors of accommodation and 5 dormer windows in the front slope of a substantial roof. A central element connects to another wing, both parts being sizeable in themselves but subservient to the main wing. High walls connect either side of a courtyard to a detached, 3-bay garage.
5. The proposed internal alterations to the house would not affect the external appearance, while the conservatory would be a minor addition at the rear. I agree with the Council that these parts of the proposal would have no material effect on the character and appearance of the existing property or the surrounding area.
6. The new triple garage would have the same size, orientation and appearance as that which it would replace. It would increase significantly the overall footprint of house and outbuildings linked by brick walls. However, the garage would be subservient in scale and siting to the other development, and have little impact outside the site. On balance, I consider that this element would also be acceptable.
7. The Council objects to the enlargements to the existing garage and its link to the main house. The additions to garage would enable the building to house a pool and exercise facilities with guest accommodation above. In my view the changes would not disproportionately enlarge the building. The roof would be raised, though not excessively, to follow the increased depth along the rear of the building. A modest side extension would be partially hidden by the high linking brick wall. The glazed connection to the main house would be attached to the existing link wall and be open on the far side of it. The enlarged building would be no closer to the main house than now, and would be clearly subservient in scale. It is likely that only the increase in roof height would be visible from outside the grounds, and then only to a limited degree. Such is the spaciousness of the site and the maturity of its landscaping that the new development would be readily absorbed within its setting. I consider that there would be no materially intrusive effect on the surrounding countryside.
8. The Council has provided floorspace calculations to show how the proposal would compare to the size of the original property. It says the overall floorspace of the extensions, including the walkway, would be 450 square metres. This would result in an increase of 81% on the original floorspace of 555 square metres. In some situations, for example within a Green Belt, I would normally regard that as a disproportionate increase. In this case I find there to be a number of material considerations to be borne in mind, which together weigh significantly in favour of the proposal.
9. Firstly, the original house is very large and, notwithstanding any floorspace estimates, I consider that the alterations now proposed would be clearly

subservient to, and in keeping with the character and appearance of, the original house. Secondly, the elements would be designed as a whole so that the assemblage would have a coherent design and unified overall appearance of high quality. The individual buildings would also be connected by enclosing brick walls of uniform height, materials and detailing. Thirdly, the scale would diminish significantly and in a logical progression away from the house, with the height and footprint reducing from the house to the enlarged former garage and then to the replacement garage. Fourthly, the proposal would not intrude into the openness or rural qualities of the surrounding area. Fifthly, the size of the original house and curtilage means that a significant amount of what is proposed could be done as permitted development, and this could be a realistic fall-back position. Finally, I consider there would be no conflict with reasoning behind Policy ENV5. According to paragraph 8.9.1 in the Local Plan, the Council is concerned with the effects of extensions on the character and appearance of the existing building and on the general maintenance of a supply of smaller dwellings outside the main towns and settlements, as well as the cumulative impact of development in the countryside. This proposal would not be detrimental to these concerns.

10. I consider it is necessary, in the interests of a satisfactory appearance for the overall proposal, that I impose a condition to require details of the materials to be used to be approved before development starts. In addition, otherwise than as set out in this decision and conditions, and for the avoidance of doubt and in the interests of proper planning, it is necessary that the development shall be carried out in accordance with the approved plans.
11. Subject to these conditions, I conclude that the proposal would not detract materially from the character and appearance of the property and the surrounding area. There would be no conflict with the purposes of the local plan policies referred to above, or with Policy ENV6, which requires extensions to be of a design and choice of materials that match or are complementary to the original building and its setting.
12. There is therefore no reason to withhold planning permission and I allow the appeal.

*G Garnham*

INSPECTOR