

Appeal Decision

Site visit made on 15 December 2015

by **H Butcher BSc (Hons) MSc MRTPI**

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

Decision date: 29 January 2016

Appeal Ref: APP/J1915/W/15/3131797

103 New Road, Ware, Hertfordshire SG12 7BY

- 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 V & V Reclamation against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/0415/FUL, dated 27 February 2015, was refused by notice dated 27 May 2015.
 - The development proposed is the construction of two semi-detached 4 storey houses with garage parking to the rear.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of two semi-detached 4 storey houses with garage parking to the rear at 103 New Road, Ware, Hertfordshire in accordance with the terms of the application, Ref 3/15/0415/FUL, dated 27 February 2015, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by V & V Reclamation against East Hertfordshire District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the development on the living conditions of occupiers of 99 and 105a New Road, having particular regard to matters of light and a potential overbearing impact.

Reasons

Background

4. The appeal site comprises a rectangular piece of land which fronts onto New Road and also has a rear access. There were previously offices on the site. However, surrounding development is predominantly residential. The section of New Road on which the appeal site is located has a steep incline from south to north.
 5. The planning history of the site includes a planning permission (ref 3/10/2139/FP) which was granted for two semi-detached, four storey houses of a broadly similar design, scale and siting to that which forms the
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basis of this appeal. At the time of my site visit footings and a basement broadly along the lines of the approved scheme had been constructed. This matter is not disputed by the two main parties. I have therefore considered this appeal on the basis that the above permission provides a 'fallback' position.

Living conditions

6. The proposal before me seeks a similar development to the above permission. There are however, some key differences. These include an increase in the depth of the two storey side wings from 8.8m to 10.9m, and an increase in the height of the main building of 0.18m and the side wings of 0.34m. I have approached this appeal on the basis of any harm which could be caused by an overbearing development in terms of having a dominating or enclosing effect on the outlook of neighbouring occupiers.
7. The proposed increase in depth of the side wings would not alter the extent to which these projected beyond the rears of 99 or 105b New Road when compared with the 'fallback' position, nor would it change the distance of these from the side boundaries of the site. Instead the proposed increase in depth would bring the side wings forward towards the front of the dwellings.
8. Such a change would only be discernible from the side of the proposed dwellings and would be viewed against a backdrop of the deeper flanks of the main building. In addition to this nos. 99 and 105b are both laid out so that the majority of the windows to these properties, which provide the main sources of light and outlook, are to the front and rear. In any event, these changes to the side wings would not materially affect the outlook or light to either of these neighbouring properties above or beyond that of the 'fallback' position.
9. The proposed increases in the height of the development are relatively minor when viewed in the context of the development as a whole, and having regard to the 'fallback' position. As such they would not materially worsen the living conditions for occupiers of nos. 99 or 105b in terms of outlook or light.
10. In coming to the above conclusions I accept that the proposal would result in some overshadowing of the rear patio and side windows belonging to no 105b. However, I note that the submitted Daylight and Sunlight Analysis found that the proposal would accord with the Building Research Establishment "Site layout planning for daylight and sunlight: A guide to good practice" Second Edition issued October 2011. Notwithstanding this, as outlined above, any overshadowing would not be materially greater than that of the extant permission on the site.
11. Having considered the proposed development before me and the 'fallback' position I find that the proposal would not materially harm the living conditions of occupiers of 99 or 105b New Road by reason of a loss of light or overbearing impact and reasonable living conditions would be retained. I therefore find no conflict with policies HSG7 or ENV1 of the East Herts Local Plan Second Review (April 2007) which, amongst other things, requires new development to respect the amenity of occupiers of neighbouring buildings. This is in line with the National Planning Policy Framework (the Framework) which similarly seeks to secure a good standard of amenity for all existing occupants of land.

Other matters

12. Neither the Council nor the appellant expresses a view regarding any effect of the proposal on the character or appearance of the Ware Conservation Area and I have not been provided with any relevant development plan policies relating to such matters. Nonetheless, I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
13. In this respect, the proposed development would be well sited in relation to surrounding development and the overall design and scale would fit with the character of this area. Whilst noting that the Ware Conservation Area Appraisal and Management Plan is currently under consultation, given that the proposed changes to the elevations and overall scale and form of the development from that of the previously approved permission (referred to above) are relatively minor I am satisfied that the proposal would preserve the character and appearance of the conservation area. I note the Council's Conservation Officer reached a similar conclusion.
14. Third party comments raise concern over the impact of the proposed garage and carport to the rear of the site on the living conditions of occupiers of neighbouring properties. These would not be overly large for their purpose remaining essentially single storey nature in spite of having additional accommodation in the roof. They would also be sited a good distance from neighbouring properties. I therefore find no harm in this respect. Similarly in relation to any impacts on the living conditions of occupiers of properties located opposite the appeal site, again, given the distances involved, I find no material harm in this regard.
15. The future change of use of the garages to residential would require planning permission and has therefore not formed part of my deliberations. Nevertheless, a condition requiring the first floors of the garage and carport to be restricted to purposes ancillary to the occupation of the dwellings could be attached to any subsequent permission.
16. The proposal provides a communal courtyard and either a double garage or double carport for each property. In addition to this there is a gravel drive to the front of both properties. The Council have not objected on the level of parking to be provided and I find no reason to conclude differently.
17. On the evidence before me I find no reason to conclude that the level of hard standing proposed would be excessive, nor that any external lighting would have an adverse impact upon neighbouring properties. Both dwellings would have adequate space for bin and/or cycle storage.
18. Third parties have suggested that there is no 'fallback' position because the works carried out on site deviate from the approved plans. However, even if there was no 'fallback' position, the existence of the previous permission is a material planning consideration and I am not aware of any change in circumstances since that planning permission was granted. In any event, in consideration of the evidence before me, I am satisfied that any adverse impacts from the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conditions

19. The Council has suggested a number of conditions in addition to the standard time limit condition. I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. Conditions concerning the materials to be used in the development, the retention of existing trees, landscaping, and boundary treatments are all necessary to ensure a satisfactory appearance.
20. In order to protect neighbouring properties from overlooking I have included a condition for the windows in the side elevations to be obscure glazed but do not consider it necessary to require these to be high level windows. I have not been made aware of any exceptional circumstances which would justify removal of permitted development rights.
21. In the interests of highway safety I have included conditions relating to visibility splays, and parking during construction and for future occupiers of the development. A condition relating to hours of construction is also included to limit noise and disturbance to occupiers of neighbouring residential properties.
22. A Preliminary Environmental Site Investigation of the appeal site has been undertaken. Some of this is no longer relevant as it refers to demolition of the previous structures on site. It does, however, identify other contamination which might pose a significant risk to human health in gardens and areas of soft landscaping. I have therefore included a condition for a revised scheme to deal with any contamination of the site.
23. Given that the footings and basement levels of the approved dwellings on site have been constructed it is not necessary to impose a condition in relation to noise from any piling works.

Conclusion

24. Having considered the proposed development before me and the 'fallback' position I find that the proposal would not materially harm the living conditions of occupiers of 99 or 105b New Road by reason of a loss of light or having an overbearing impact. Therefore, having regard to all matters raised, and subject to conditions, the appeal is allowed.

Hayley Butcher

INSPECTOR

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: Location Plan, 14 655:01:00, 14 656:02:00, 14 655:03:01, 14 655:04:00, 15 655:05:01, 15 655:06:01, 15 655:07:01, 15 655:08:01, 15 655:09:00, 15 655:10:00, 15 655:11:00, 15 655:12:00, L1407/01.
- 3) No development shall take place until a sample of the external brickwork and details of bonding, a sample of roof tile, detailed drawings of all external doors and windows showing materials and finishes, and details of all rainwater goods, 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 full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These works shall be carried out in accordance with the approved details prior to the occupation of the dwellings hereby approved.
- 5) In this condition "retained trees" means existing trees which are to be retained in accordance with the approved plans, and paragraphs (i) and (ii) below shall have effect until the expiration of five years from the date of the occupation of the building for its permitted use.
 - i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with BS 3998:2010 Tree Work - Recommendations.
 - ii) If any retained tree is removed, uprooted or destroyed, or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - iii) Details as to how the retained trees will be protected during construction shall be submitted to and approved in writing by the local planning authority. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 6) The dwellings shall not be occupied until boundary treatments have been provided in accordance with details that shall have been submitted to and approved in writing by the local planning authority, and these boundary treatments shall be permanently retained as originally implemented.

- 7) Before the first occupation of the dwellings hereby permitted the windows in the side elevations shall be fitted with obscured glass and shall be permanently retained in that condition.
- 8) The dwellings shall not be occupied until visibility splays have been provided in accordance with details that shall have been submitted to and approved in writing by the local planning authority, and these visibility splays shall be permanently retained as originally implemented.
- 9) The dwellings shall not be occupied until the vehicular parking areas have been laid out as shown on the approved drawings, and have been drained and surfaced in accordance with details that shall have been submitted to and approved in writing by the local planning authority. These areas shall not thereafter be used for any purpose other than the parking of vehicles.
- 10) Prior to the commencement of development plans shall be submitted to and approved in writing by the local planning authority indicating the provision of space within the site to provide for the parking of construction workers' vehicles and for the delivery and storage of materials. Such space shall be provided and maintained for the duration of construction works in accordance with the approved plans.
- 11) Demolition or construction works shall not take place outside 0730 hours to 1830 hours Mondays to Fridays and 0730 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 12) The first floor accommodation within the garage/carport buildings hereby approved shall only be used for purposes ancillary to the occupation of the dwellings and shall not at any time be used as habitable accommodation.
- 13) Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination and measures to be taken to avoid risk to the occupiers when the site is developed. No dwelling shall be occupied until the measures approved in the scheme have been implemented.

Appeal Decision

Site visit made on 15 December 2015

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 26 January 2016

Appeal Ref: APP/J1915/W/15/3131712

13 The Avenue, Bengeo, Hertford SG14 3DQ

- 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 Mark Hornsby against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/0597/FUL, dated 25 March 2015, was refused by notice dated 20 May 2015.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a replacement dwelling at 13 The Avenue, Bengeo, Hertford in accordance with the terms of the application, Ref 3/15/0597/FUL, dated 25 March 2015, subject to the conditions set out in the attached schedule.

Main Issue

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

Reasons

3. The appeal site is located adjacent to Hertford Conservation Area. The section of The Avenue where the appeal site is located features a mix of housing including semi-detached and detached properties. As a result there is a mix of densities with some properties occupying spacious plots whilst others are located closer together.
 4. The appeal site currently comprises a detached two storey property with detached single garage to one side. It occupies a wide plot with a wide frontage and a relatively large front garden. To the rear of the site is a detached property beyond which is open land.
 5. The proposed replacement dwelling would be well proportioned. The front elevation would feature two ground floor bay windows either side of a central entrance door and smaller first floor windows. There is no one defining character of property in this section of The Avenue. Consequently the proposal would add to an already varied street scene.
 6. The replacement dwelling would maintain the established building line. It would be wider than the existing property. However, generous gaps to the side boundaries would be retained; approximately 3.5m and 5m respectively when
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measured from the front corners of the proposed dwelling. Such gaps would be broadly in line with the pattern of surrounding development. The proposed dwelling would also be taller than the existing dwelling, but given the variation which currently exists along The Avenue it would not appear out of keeping.

7. Whilst having the appearance of a pitched roof the proposed dwelling would include an area of flat roof. I accept that such roof forms can appear bulky. However, in this instance, the proposed dwelling would be set well back from The Avenue, and, as noted above, would retain generous gaps to the sides. As such it would not appear overly bulky for its plot. I also noted on my site visit that there was a property with a similar roof form on the other side of The Avenue, therefore such a roof form would not be unusual in this context.
8. The Council have objected on the grounds of a loss of openness. For the above reasons I find that the appeal site is capable of comfortably accommodating the proposed dwelling in a manner which would respect the layout of surrounding development. The appeal site already has a dwelling in-situ and there is also a dwelling to the rear. I therefore find no compelling reason to dismiss the appeal due to a loss of openness.
9. The proposal would therefore not be harmful to the character or appearance of the surrounding area and as such would not conflict with policies ENV1 and HSG7 of the East Herts Local Plan Second Review (April 2007). These policies, broadly speaking, require new development to be of a high standard of design which fits with its surroundings. Similarly the National Planning Policy Framework requires high quality design which takes account of local character.

Other matter

10. I find no harm in terms of parking provision given the ample driveway which would be provided. Any impacts arising from the development in terms of obstruction of a neighbouring property's satellite dish and/or the repositioning of overhead telephone lines would not outweigh my previous findings.

Conditions

11. The Council has suggested a number of conditions in addition to the standard time limit condition. I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. A condition concerning the materials to be used is necessary to ensure a satisfactory appearance. I have also imposed conditions ensuring the vehicular accesses and parking are provided, and that surface water is adequately drained in the interests of highway safety.
12. A condition relating to arrangements for the storage of refuse bins is not necessary as there is adequate space to the sides and rear of the proposed dwelling for its occupants to make satisfactory arrangements. Similarly I have not been made aware of any relevant Development Plan Policy requiring the provision of renewable energy measures, grey water recycling or other sustainability measures.
13. I note that privacy concerns have been raised. However, I am satisfied that these can be addressed by means of a planning condition to ensure obscure glazing in the first floor north side bathroom window. It is not, however, necessary to have a restricted opening as well as this window relates to a non-

habitable room and when open would only provide restricted views. I have not been made aware of any exceptional circumstances which would justify further removal of permitted development rights.

Conclusion

14. For the reasons given the proposal would not cause harm to the character and appearance of the surrounding area. Therefore, having regard to all matters raised, the appeal is allowed.

H Butcher

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: Location Plan, NH/641/01, NH/641/02, NH/641/03, NH/641/04, NH/641/05.
- 3) No development shall take place until the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The dwelling shall not be occupied until all on-site vehicular areas have been provided and surfaced in accordance with details that shall have been submitted to and approved in writing by the local planning authority, and these areas shall be permanently retained thereafter.
- 5) The dwelling shall not be occupied until works to intercept and dispose of surface water have been implemented in accordance with details that shall have been submitted to and approved in writing by the local planning authority, and these works shall be permanently retained thereafter.
- 6) Before the first occupation of the dwelling hereby permitted the first floor window in the north side elevation shall be fitted with obscured glass and shall be permanently retained in that condition.



Appeal Decision

Site visit made on 1 December 2015

by **Amanda Blicq BSc (Hons) MA CMLI**

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

Decision date: 21 January 2016

Appeal Ref: APP/J1915/W/15/3130472

7 Woodland Mount, Hertford, Hertfordshire SG13 7JB

- 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 Fairbrother against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/0880/FUL, dated 20 April 2015, was refused by notice dated 18 June 2015.
 - The development proposed is a three bedroom detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - the character and appearance of the site and its immediate vicinity; and,
 - the living conditions of future occupants, with particular regard to amenity space.

Reasons

Character and appearance

3. Woodland Mount is a short section of residential street rising steeply from Stanstead Road. The properties are generally semi-detached and of similar style and age. The development comprises a detached house, which would be positioned on a raised triangular plot alongside 7 Woodland Mount (No. 7). Two parking spaces would be located between the footway and the front elevation, and the amenity space would be restricted to two modest triangular areas at the side and rear of the property.
 4. The design of the dwelling would be consistent with the semi-detached properties around it. However, although Woodland Mount is a short section of road, there is an established regularity of spacing between dwellings, and the stepping up of ridge lines follows the gradient of the road. Although 1 Woodland Road is positioned around the corner, with a greater distance between it and No. 7, it continues the pattern established on Woodland Mount in a pleasing manner.
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5. The proposal would disrupt the established building pattern as the development would be smaller in size and scale than the neighbouring dwellings, and would break the rhythm of the stepped ridge lines. The level change between No.7 and the development would be similar to that found between 3 and 5 Woodland Mount, but the lateral separation would be reduced. This would increase the visual impact of the height difference between the properties, resulting in an impression of overdevelopment compared to the other plots on Woodland Mount. Furthermore, the narrow lateral separation between the development and No. 7 would disrupt the established building pattern on Woodland Mount, and the new dwelling would appear squeezed into the space compared to its neighbours. Although the existing dwellings and their spacing are unremarkable in architectural terms, they nevertheless give the street a rhythm and consistency, which merits respect.
6. The appellant considers that the wide open side garden of 1 Woodland Road would contribute to the setting of the development by adding spaciousness. However, this does not alter the fact that the development would be an intrusive and discordant element in the prevailing pattern of built form, and would appear cramped on the site, as reasoned above.
7. The proposed parking layout for the combined development and host dwelling would result in three parking spaces across two levels, immediately forward of the frontages. Generally other properties in the vicinity have retained most of their front gardens. The introduction of a row of parked cars immediately behind the footway, and hard against the front elevation of the development, would present a cramped appearance. It would also be prominent and intrusive, to the detriment of local character.
8. Consequently, the development would fail to relate to the locality, contrary to Policy ENV1 of the Local Plan¹ which requires development to demonstrate compatibility with the structure and layout of the surrounding area, nor would it reflect local distinctiveness as required by Policy HG7 (LP). It would also be contrary to the provision in Policy HSG7 (LP) which aims to ensure infill housing development is well-sited in relation to surrounding buildings, and does not appear over obtrusive or over intensive.

Living conditions

9. The combination of plot size and irregular shape would result in the development's amenity space being fragmented and restricted in area, which would reduce functionality on a day to day basis. In particular, the two areas of paving at the rear, accessed from the kitchen and family room, would be very limited in size and constrain normal family activity. Whilst I appreciate that 4 Woodland Mount (No. 4) is also on a triangular and corner plot, precedent does not necessarily justify perpetuating a situation that would result in harm.
10. I acknowledge that the Council has not referred to quantitative standards of amenity space, but it is appropriate that they use their judgement to assess the adequacy of what is proposed. Policy ENV1 (LP) requires development proposals to respect the amenity of future occupants, and I disagree with the appellant that this policy does not refer to the provision of amenity space. In any case, Paragraph 17 of the National Planning Policy Framework requires

¹ East Herts Local Plan Second Review April 2007

development to seek a good standard of amenity for all future occupants of land and buildings. In this instance I concur with the Council that the amenity space proposed is unsatisfactory, for the reasons given. Consequently the development would be contrary to Policy ENV1 (LP) and Paragraph 17 of the Framework, as outlined above.

Conclusion

11. I appreciate that the development has been reduced in size following previous appeals. However, I consider that the development would represent overdevelopment of the site, to the detriment of local character and appearance. In addition, there would be inadequate amenity space, causing harm to the amenity of future occupants.
12. For these reasons and taking into account all other matters raised, including representations from neighbours and other interested parties, I conclude that the appeal should be dismissed.

Amanda Blicq

INSPECTOR

Appeal Decision

Site visit made on 6 January 2016

by W G Fabian BA Hons Dip Arch RIBA IHBC

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

Decision date: 28 January 2016

Appeal Ref: APP/J1915/D/15/3133811

9 River Green, Buntingford, Hertfordshire SG9 9ES

- 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 Helena Lucy Evans against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/0919/HH, dated 24 April 2015, was refused by notice dated 22 July 2015.
 - The development proposed is a two storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey rear extension at 9 River Green, Buntingford, Hertfordshire SG9 9ES in accordance with the terms of the application, Ref 3/15/0919/HH, dated 24 April 2015, 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 extension hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing DD 896 3/15/0919/.

Main Issue

2. The main issue in this case is whether the proposal would preserve or enhance the character or appearance of the Buntingford Conservation Area and preserve the setting of the nearby listed properties.

Reasons

3. The appeal relates to a modest two storey cottage style house located with its end gable onto the road, and close to the heart of the conservation area, which is a designated heritage asset of acknowledged importance. Closely adjacent at right angles to one side of it is a pair of semi-detached two storey dormered houses (Nos 5 and 7), which are set back from the road beyond it. It also lies alongside the rear garden boundary of No 11, which is attached to No 15; these are both Grade II listed houses.

4. Saved policy ENV1 of the East Herts Local Plan Second Review, 2007, (LP) seeks a high standard of design to reflect local distinctiveness and policy ENV5 requires extensions to dwellings not to disproportionately alter the size of the original dwelling. Saved LP policy BH6 relates specifically to new development in conservation areas and states that this will be permitted where it is sympathetic in terms of scale, height, proportion, form, materials and siting in relation to the general character and appearance of the area. These broadly reflect the aims of the *National Planning Policy Framework* (the Framework) in terms of the environmental role of sustainable development and the historic environment.
5. The proposed two storey extension would be built onto the rear gable of the house, extending its length by a little over a third, but with the roof set lower than the main one and the side wall adjacent to Nos 5 and 7 set slightly in. As such that the extension would be clearly distinguishable from and subservient to the main house. In terms of its form and materials it would be in keeping with the existing house and would harmonise well with those around it, preserving this aspect of the character and appearance of the conservation area.
6. The conservation area here comprises an organic development of single detached and short terraces of houses clustered in small groups in an informal manner around the winding road layout. This creates a pleasant rural atmosphere. The surroundings are predominantly leafy and verdant, with some large coniferous trees and I saw that, even in winter at the time of my visit, views between the houses here are limited. The gaps between buildings are nevertheless important and provide space for the trees that are key to the character of this part of the conservation area.
7. While the proposed extension would occupy the whole of the confined end part of the appeal site, it would not result in any loss of trees or greenery. It would partly block the view behind the appeal property between No 7 towards Nos 11-15, but not wholly, and sufficient space would remain between it and No 7 to prevent any sense of merging of the separate buildings here. The appeal house runs parallel to Nos 11 – 15 and is at a sufficient distance behind them that the increase in building mass would have only a minimal effect on their setting.
8. Although reference has been made to additional overlooking of neighbouring properties from the upper floor of the proposed extension, this would not add significantly to the level of overlooking from existing upper floor windows in the appeal property.
9. Neighbours are concerned with regard to the possible blocking of flood water flow routes. However, I note that the Environment Agency has raised no objection and the Council shares this assessment in regard to the Flood Risk Assessment provided. In the light of the extant planning permission for a single storey extension on the same footprint, the proposal would not add materially to flood risk.
10. Overall, I conclude that the proposal would preserve the character and appearance of the Buntingford Conservation Area and preserve the setting of the nearby listed properties, in accordance with the development plan and national policy in this regard.

11. For the reasons given above and having regard to all other matters raised, the appeal should be allowed.
12. No conditions other than the standard ones relating to implementation, materials and compliance with the plans have been suggested and I agree that no others are necessary.

Wenda Fabian

Inspector

Appeal Decision

Site visit made on 6 January 2016

by **W G Fabian BA Hons Dip Arch RIBA IHBC**

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

Decision date: 27 January 2016

Appeal Ref: APP/J1915/D/15/3133601

West Stable, Ashendene, White Stubbs Lane, Bayford, Hertford SG13 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 Andrews against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/1037/HH, dated 18 May 2015, was refused by notice dated 4 August 2015.
 - The development proposed is side and rear extensions.
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Decision

1. The appeal is dismissed.

Main Issue

2. The appeal site lies within the Green Belt. The Council has indicated that the proposal would not comprise disproportionate extensions in the Green Belt and, given the planning history, including the removal of previous outbuildings at the site, I see no reason to disagree. The proposal would therefore not be inappropriate development in the Green Belt.
3. Accordingly, the main issue in this case is the effect of the proposal on the character and appearance of the existing building and whether it would preserve the setting of the nearby listed building.

Reasons

4. Ashendene is listed, Grade II, and so is a heritage asset of acknowledged national importance. According to the list description it is an irregular two storey country house in an imaginative, post-Shaw 'Olde English' style of handsome elaborately moulded red brickwork, with a tile-hung upper floor and intact very decorative features, including turrets. It dates from around 1887 and, despite now being sub-divided into separate dwellings, it retains the formal appearance of a gracious country house. Its main entrance is to the north, with a lower service wing to the east.
5. Close to this service wing is a nearby extensive range of two storey brick outbuildings, which have also been converted to several dwellings, including the appeal house. These outbuildings although not referred to in the listing are in a more restrained but also ornate style, similar to the listed buildings and include a cupola and clock at the west end. They share a secondary gravelled

courtyard approach with the listed service wing and form an important and integral part of the setting of the main listed house.

6. West Stable, the appeal property, comprises the two storey stable wing of these outbuildings, which projects south from the centre of the east/west range, with a single storey element at the south end and a modern conservatory attached to this. A further separate small pitch-roofed brick storage building orientated east/west is linked to the end of West Stable by a high brick courtyard wall.
7. The proposal is for comprehensive enlargement and alterations to this outbuilding, by replacement of its southern wall with full height glazing and two extensions, towards the east and south. A narrow glazed link would join the extended building to the single storey part of the West Stable dwelling, which would have its roof reconfigured from a hipped to a gable roof. The conservatory would also be replaced by a sunroom with pitched clay tiled roof and a glazed gable end.
8. Policies ENV1 and ENV5 of the East Herts Local Plan Second Review, 2007, (LP) seek a high standard of design to reflect local distinctiveness and require extensions to dwellings to not disproportionately alter the size of the original dwelling. These broadly reflect the aims of the *National Planning Policy Framework* (the Framework) in terms of the environmental role of sustainable development.
9. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* The Framework also states at paragraph 132 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
10. In terms of design, the proposal would have a coherent appearance overall, and would be a moderate improvement on the somewhat disjointed and utilitarian appearance of the small brick store building as well as the 'off the peg' appearance of the conservatory. However, these improvements could be achieved without the other impacts that would arise from this proposal. It would effectively double the size of the storage building and by linking it to the stable wing as well as extending it southward, would produce a long meandering and unbalanced composition that would blur the original plan and form of the Clock House and Stables building.
11. It would produce an accretion of extensions at this south east side of the stable courtyard, in close proximity to the listed building and would close the physical gap between the listed service wing and the overall range of outbuildings. As a result it would distort the original relationship between these buildings and cause harm to the setting of the listed building. In reaching this assessment I have had regard to the historic photographs of glasshouses in similar positions

to that proposed, but these transparent constructions were clearly distinguishable as secondary to the main Clock House and Stables building and did not have the same effect as is now proposed.

12. While the harm to the setting would not be substantial (which the Guidance to the Framework clarifies is a high test), the effect would be significant and noticeable and so, although less than substantial harm would arise, this should only be allowed where the public benefits would outweigh the harm. The appellant seeks to reconfigure the living accommodation to change its long and thin proportions and to limit heat loss from the existing conservatory. Although desirable, these are not public benefits and so do not outweigh the harm to the setting of the listed building.
13. Overall I conclude that the proposal would harm the character and appearance of the existing building and thus fail to preserve the setting of the nearby listed building. This outcome would be contrary to the development plan and national policies set out above.

Wenda Fabian

Inspector



The Planning
Inspectorate

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Development Control
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Development Control
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SG13 8EQ

Your Ref: 3/15/1811/FUL
Our Ref: APP/J1915/W/15/3138984

29 January 2016

Dear Development Control,

Town and Country Planning Act 1990
Appeal by The Blake Family
Site Address: Vintage Court, Puckeridge, Herts, SG11 1SA

For your information only, the following is the content of a letter sent to the appellant's agent today.

I write further to our appeal start letter of 22 January.

Having reviewed your appeal submission I am required to consider the ongoing dispute between you and the LPA in respect of the fee payable in support of application 3/15/1811/FUL dated 26 August 2015. In doing so I have given full regard to the statement of case included with your appeal, and to the LPA communication of 30 October 2015 referenced in your statement.

Leaving the specific circumstance leading to the withdrawal of the planning applications aside, I understand that application 3/13/1889/FP was received with the appropriate fee in October 2013. This was withdrawn on 10 December 2013. A second application, 3/14/1892/FP was submitted in October 2014. It was accepted without any fee under the terms of regulation 9(1)(a) of the 'Fees Regulations' and in accordance with the 'condition' described at Regulation 9(2)(a)(i). This application was then withdrawn on 12 December 2014.

My interpretation of the 'condition' described at Regulation 9(2)(e) is that in order to benefit from the fee exemption described at Regulation 9(1)(a), the withdrawn application must have been accompanied by the appropriate fee. In other words, an applicant may benefit from the 'free-go' exemption only once. This interpretation is in keeping with previously published guidance included at paragraph 86 of DCLG Circular 04/2008 (which is no longer in publication).

Whilst it is appreciated that you seek to argue that the circumstance in which application 3/14/1892/FP was withdrawn should be taken into account, the fact is that the application

was freely withdrawn, and therefore the LPA no longer held jurisdiction that would have allowed further consideration of the application, or to refuse planning permission (which would have retained your right to appeal at that time).

In view of the above conclusions, the timetable outlined in our appeal start letter of 22 January is suspended with immediate effect, and we will be taking no further action in considering this appeal on the basis that the application met neither of the requirements outlined at Article 34(4)(f) or Article 34(5)(f), and it was therefore invalid.

A copy of this communication has been forwarded to the LPA.

Yours sincerely,

Brett Highway

Brett Highway

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - www.planningportal.gov.uk/planning/appeals/online/search