



Appeal Decisions

Hearing held on 27-28 June 2017

Site visit made on 28 June 2017

by **Michael Boniface MSc MRTPI**

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

Decision date: 20 July 2017

APPEAL A

Appeal Ref: APP/J1915/W/16/3163847

Land to south of Hadham Road, Bishop's Stortford, Hertfordshire, CM23 2PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Hertfordshire County Council (Development Services) against East Hertfordshire District Council.
 - The application Ref 3/14/2143/OP, is dated 21 November 2014.
 - The development proposed is 247 dwellings, alterations to Patmore Close, internal access and parking, landscaping, open space and related works.
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APPEAL B

Appeal Ref: APP/J1915/W/16/3163848

Land to south of Hadham Road, Bishop's Stortford, Hertfordshire, CM23 2PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Hertfordshire County Council (Development Services) against East Hertfordshire District Council.
 - The application Ref 3/14/2145/OP, is dated 21 November 2014.
 - The development proposed is 84 dwellings, alterations to Patmore Close, access road, internal access and parking, landscaping, open space and related works.
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Decisions

1. Appeal A is allowed and planning permission is granted for 247 dwellings, alterations to Patmore Close, internal access and parking, landscaping, open space and related works at Land to south of Hadham Road, Bishop's Stortford, Hertfordshire, CM23 2PY in accordance with the terms of the application, Ref 3/14/2143/OP, dated 21 November 2014, subject to the conditions contained in the attached Schedule.
2. Appeal B is allowed and planning permission is granted for 84 dwellings, alterations to Patmore Close, access road, internal access and parking, landscaping, open space and related works at Land to south of Hadham Road, Bishop's Stortford, Hertfordshire, CM23 2PY in accordance with the terms of the application, Ref 3/14/2145/OP, dated 21 November 2014, subject to the conditions contained in the attached Schedule.

Preliminary Matters

3. As set out above there are two appeals on this site. Appeal A is the larger of the two schemes. Appeal B is a smaller part of the site subject of Appeal A and so the two schemes could not be implemented contemporaneously. The maximum number of dwellings that could ultimately be built is 247, even if both appeals are allowed. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. The Council has already granted planning permission¹ for 163 dwellings on part of the site, within the site area of Appeal A but outside the site area of Appeal B. This remains extant and I have had regard to it in reaching my decisions.
5. The applications are submitted in outline with details of the access to be considered. Matters of appearance, landscaping, layout and scale are reserved for subsequent consideration. I have considered the appeals on this basis.

Main Issues

6. The Council did not make a formal decision in these cases but, following the submission of the appeals, resolved that it would have granted planning permission in both cases had it been empowered to do so. The parties also agreed a list of planning conditions and obligations during the appeal process in the event that planning permission was to be granted. As such, there was no dispute between the parties by the time of the hearing.
7. The main issues in the appeal are whether the site is suitable for residential development having regard to adopted and emerging planning policy; whether there is sufficient school capacity without the appeal site; and the effect on local sports pitch provision.

Reasons

Policy

8. It is agreed between the parties that the Council cannot currently demonstrate a deliverable five year housing land supply as required by the National Planning Policy Framework (the Framework)². As such, relevant policies for the supply of housing should not be considered up-to-date and housing applications should be considered in the context of the presumption in favour of sustainable development³.
9. For decision taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out of date granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted⁴.

¹ 3/14/2144/OP

² Paragraph 47

³ Paragraph 49

⁴ Paragraph 14

10. Policy BIS2, in conjunction with HSG2, of the East Herts Local Plan Second Review (April 2007) (LP) allocates the appeal site⁵ for residential development and it is expected to accommodate 250 dwellings. Policy BIS7 deals specifically with the site and, amongst other things, states that the site will only be released for development if sufficient additional secondary school capacity is provided elsewhere in the town. Subject to this being the case, no conflict with the LP has been identified.
11. The emerging East Herts District Plan (emerging DP) has now been submitted to the Secretary of State for examination and seeks to alter the policy position in respect of the site. Policy BISH1 identifies that up to 163 homes will be accommodated on the Reserve Secondary School Site, contingent on the provision of a secondary school site at Bishop's Stortford North. Policy BISH4(c) would require retention and enhancement of the outdoor playing pitches in the western parcel of the site (the area subject of Appeal B). The appellant has submitted an objection to this policy approach and this is yet to be resolved. In light of this, and the fact that the emerging plan is yet to be independently tested, I attach these policies very limited weight in accordance with paragraph 216 of the Framework.
12. The site falls within the area covered by the Bishop's Stortford Town Council Neighbourhood Plan for Silverleys and Meads Wards (2014-2031) (NP). Policy EP2 of the NP supports the provision of a new secondary school at Bishop's Stortford North (a large development with planning permission to the north of Hadham Road). Residential development is generally supported, where it accords with the Strategic Housing Market Assessment. No conflict is identified with the NP.

School capacity

13. The site is only to be released for residential development where sufficient school capacity can be provided elsewhere. It is agreed between the parties that a site has been identified at Bishop's Stortford North (BSN) as an alternative to the appeal site and that a school of at least equal size to that which could be accommodated on the appeal site has already been granted planning permission. This would accommodate the need arising from BSN, the appeal sites and residual needs in the town.
14. I heard that this was subject to a land swap agreement and that the County Council would take control of the school site at BSN before development occurred on the appeal site, allowing it, as Local Education Authority, to bring the new school forward. It was also explained that there is a lack of school provision in the north of the town and that the site identified at BSN would provide a more accessible and generally preferable location for a new school in the town, particularly given the large amount of residential development anticipated in this area.
15. The Civic Federation questions the detailed analysis of the County Council in respect of the likely demand for school places but I heard that the amount of development expected in the emerging DP had been considered, as had the potential for pupils wishing to attend schools in the town from neighbouring authority areas. It was also explained that potential exists for the expansion of other schools in the town, including at the Bishop's Stortford School for Boys

⁵ Reserve Secondary School site, Hadham Road, Ref. 164

and Herts & Essex School for Girls, to increase capacity where necessary in the future.

16. Importantly, an extant planning permission already exists on the site for 163 dwellings and the parties confirmed that a school could not be accommodated on the site if this permission were implemented. The appellant confirmed that there is every intention to do so, albeit that it would be unlikely to undertake the development itself. This seems to me to be a likely fallback position which should be attached considerable weight and so the likelihood of a school coming forward on the site is now minimal. There is no detailed evidence before me that leads me to doubt the position of the main parties and I am satisfied that sufficient school capacity would remain available. As such, the development would accord with Policy BIS7 of the LP.

Sports pitch provision

17. The western field (site area of Appeal B) accommodated rugby pitches up until 2010 when use of the site for sports ceased. Whilst no sports pitches currently exist, Sport England object to the loss of sports pitches, noting that the pitches could be reinstated and provide a valuable sports facility.
18. The pitches had been used to provide additional training capacity for the adjacent rugby club which now utilises alternative space elsewhere. The Council accepted that there was a need for sports pitches in the area but both parties agree that the loss of potential sports pitches at the appeal site can be mitigated by the alternative sports pitches to be provided at the new school site and by a financial contribution to enhance the standard of the sports hall at the new school in line with Sport England standards.
19. The loss of a site capable of accommodating sport pitches would be unfortunate given the need in this part of the town and the specific benefits identified for the rugby club. However, I noted that the site is undulated and would not provide a good quality playing surface in its current form. Furthermore, the sports use ceased some time ago and there seems little prospect of the use being reinstated given the appellant's position.
20. Sport England consider that the new school site would be too far away from the existing rugby club to mitigate the loss of the potential pitches and notes that disaggregation of facilities does not support the clubs culture and preference to keep different age groups together in close proximity. However, the club has found alternative facilities which it has successfully been using since the sports pitches were removed from the site. Furthermore, the new school site would only be around 1km away from the existing rugby club. In my view, the alternative provision could be used by the rugby club if needed and the proposed new sports pitches and enhanced sports hall would provide a much greater public benefit in terms of the quality and availability of sports facilities than would be lost. I find no conflict with Policy LRC1 of the LP or paragraph 74 of the Framework.

Other matters

21. Some concerns have been raised regarding highways safety and capacity but the Transport Assessment (September 2014) (TA) and Transport Assessment Addendum (February 2015) provide a robust analysis of the likely impacts of the development and conclude that the highway network can accommodate the

proposed development, including the junction at Patmore Close which is shared by the fire and ambulance stations. In addition, the site is located close to a range of services and facilities and can be considered an accessible and sustainable location. The Council and the Local Highway Authority are satisfied that the development would not harm highway safety or capacity and I have no reason to reach a different conclusion.

22. The submitted Environmental Statement (ES) considered a range of issues, including landscape and visual impact; ecology and nature conservation; trees; geology, mineral and ground conditions; water; agriculture; social and economic impacts; historic building, conservation and archaeology; transportation; rights of way; noise and vibration; air quality; utilities and infrastructure; use of natural resources and waste. The ES was updated during the course of the appeal in respect of ecology; social-economic impacts; transportation; noise; and cumulative impacts. No significant impacts were identified and the parties are agreed that the development is acceptable in these regards, subject to appropriate conditions and obligations. There is no evidence before me that leads me to conclude otherwise.

Planning Obligations

23. The Council has sought a range of planning obligations, many of which would be collected on behalf of the County Council. The obligations are agreed between the parties and financial contributions have been calculated with regard to the County Council's Planning Obligations guidance – toolkit for Hertfordshire (January 2008) (Toolkit) and the Council's Planning Obligations Supplementary Planning Document (October 2008) (SPD). The submitted 'Statements in Support of Planning Obligations' set out how the obligations are considered to accord with Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010.
24. I am satisfied that there is a demonstrable need for affordable housing in accordance with policy HSG3 of the LP. The obligations provide for a policy compliant 40% provision in respect of Appeal B. Whilst Appeal A would provide only 30.7%, I accept that this reflects the lower level of provision secured through the planning permission already granted for a large proportion of the site. As Policy HSG3 allows for up to 40% provision, the development would be compliant.
25. The expected increase in the need for primary, early years and secondary school education resulting from the development has been calculated by reference to the Toolkit and capacity issues have been identified at local schools and nurseries. The need for contributions to increase capacity has been satisfactorily demonstrated. Similarly, capacity issues have been identified at Bishop's Stortford Library and a need for contributions in accordance with the Toolkit towards improved IT equipment and improvements to the newspaper and periodicals section is justified.
26. An obligation is included to fund fire hydrants within the development itself in accordance with the Toolkit. These are directly related to the appeal proposal and are necessary in the interests of public safety. Contributions are sought towards a range of sustainable transport measures such as upgrading pedestrian and cycle links, bus stops, highway and crossing improvements, as well as Travel Plan monitoring and a bus pass contribution. The need for such improvements is identified in the Transport Assessment and Addendum. The

works are necessary to ensure safe movement and encourage sustainable modes of travel. Contributions are calculated with reference to the Toolkit and estimated costs are provided for the various works.

27. A contribution is sought towards the upgrading of the existing sports hall to be provided at the new school within BSN and reflects the estimated cost for upgrading to Sport England standards. As set out above, this is necessary to mitigate the loss of the playing fields within the site. NHS Hertford has provided detailed information to demonstrate that the closest medical centres to the site are at capacity and would require enlargement to accommodate patients from the proposed development and I am satisfied that the health centre contribution is necessary.
28. The Council has confirmed that no more than five planning obligations would be pooled towards any one infrastructure project or type of infrastructure. I am satisfied that the above contributions accord with Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations) and I have taken them into account in reaching my decision.
29. It is expected that Appeal A would generate 14.4 additional young people likely to require access to youth services, which the Toolkit explains, includes a range of facilities aimed at meeting the needs of 13-19 year olds. The Toolkit methodology, along with reference to other projects, has been used to calculate a contribution towards sound proofing and improved equipment for a sound studio and expansion of a gym, including improved equipment at the Northgate Centre. However, no evidence of any quality or capacity issues at the existing centre has been provided, nor have any detailed costings for the required works been submitted. Therefore, I am not satisfied that these contributions are necessary to make the development acceptable or that they are directly related to the development given the small number of young people expected to be generated. As such, they do not accord with Regulation 122 of the CIL Regulations and I have not taken them into account in reaching my decision.
30. A contribution is sought towards the provision of a new Household Waste Recycling Facility in the town as it is claimed that the existing facility is operating at capacity. A contribution has been calculated by reference to the cost a similar facility in Rickmansworth but no detailed scheme has been costed to which the contributions would be used. The contribution made by the appeal scheme would represent only a fraction of the expected cost. Little information as to how the remainder would be funded is available or details of how the facility would be brought forward within any reasonable timescale so as to be of use to future occupants of the development. The Toolkit advises that contributions towards the construction or improvement of waste disposal facilities will be considered but that such contributions would need to be justified by a robust technical assessment of need. This assessment is not before me and it has not been satisfactorily demonstrated that the existing facility (or other local facilities) have insufficient capacity to accommodate the 247 dwellings proposed. As such, I am not satisfied that the contribution is necessary to make the development acceptable and I have not taken it into account.
31. Contributions have been sought towards the provision of allotments; burial space; community buildings; and the display/storage and recording and

interpretation of archaeological finds (Rhodes contribution). The contributions sought are said to be consistent with the contributions made in respect of development granted planning permission at BSN and the planning permission within the site itself. However, no evidence as to how this was calculated or justified is before me. Whilst some of these contributions have been calculated with reference to the Planning Obligations SPD, there is no evidence as to the capacity of existing facilities in the area, the need resulting from this development or any firm proposals as to how the contribution would be spent. Again, I cannot conclude that these contributions are necessary to make the development acceptable and I have not taken them into account. Similarly, the provision of household recycling and refuse bins is part of the normal functions and responsibilities of the Council and it accepted that other funding, such as Council Tax receipts, could be considered. It was not demonstrated that this contribution is necessary.

32. With respect to the obligations I have found to be in conflict with Regulation 122, the Council has again confirmed that there would be no more than five contributions pooled towards a single project or type of infrastructure. However, the Council has sought to use a tariff approach and has identified a number of discreet projects, which it says should be viewed as separate infrastructure projects. Details of other obligations that would be pooled were not provided and it is unclear how the projects would ultimately be funded. In the absence of this information, there is real uncertainty as to whether the pooling restrictions introduced by Regulation 123 would be breached and I have reservations about the Council's approach. However, I need not consider this matter further given that I have determined not to take these obligations into account.

Conditions

33. The parties have agreed a list of conditions in the event that planning permission is granted. I have attached a condition clarifying the reserved matters but I have not included the suggested provisions that would allow enabling works and earthworks prior to the approval of reserved matters as the majority of these works do not constitute development in any case and it is not appropriate for works to commence until the ultimate detail of the scheme is known. I have imposed the statutory timescales for the submission of reserved matters applications and commencement of development to prevent an accumulation of planning permissions. I do not consider that the longer timescales agreed between the parties has been justified, notwithstanding the need for negotiations with the owners of the new school site. This is particularly so, given that the emerging DP seeks to alter the policy position on the site. I have listed the approved plans in the interest of clarity.
34. I have attached a requirement for details of phasing and clarified the scope of details required at the reserved matters stage to ensure that infrastructure comes forward at the appropriate time and to ensure a high quality design. Details of ground levels are needed to ensure an appropriate appearance for the development and to protect the living conditions of neighbouring occupants. A condition secures a children's play area in respect of Appeal A only, to ensure that sufficient provision is available for the number of residents anticipated.

35. A surface water drainage scheme is required to prevent flooding, protect water quality and improve habitat. A Green Infrastructure and Biodiversity Management Plan is secured to ensure that biodiversity is appropriately managed and enhanced, as well as a Management Plan for Skelleys Wood which would be likely to be utilised by residents of the site and is an ecological asset. Tree and hedgerow protection is necessary, as is detailed information in respect of the proposed landscaping of the site and proposals for maintenance to maintain and enhance biodiversity, the appearance of the site and to protect neighbours' living conditions. A bat roost assessment and details of the proposed reptile receptor site are needed in accordance with the ES, to ensure that harmful impacts on ecology are mitigated.
36. I have not attached a requirement for a review of transport impacts after 5 years along with provisions for mitigation if traffic exceeds expectations. The application is accompanied by a detailed TA and TA Addendum and the Council accepts that no significant impacts will result on the highway network. Under these circumstances, the proposed condition is not reasonable or necessary to make the development acceptable. I have attached a requirement for a Travel Plan to promote sustainable modes of travel. For the same reason, and to improve permeability, a foot and cycle link onto Hadham Road is necessary in respect of Appeal A, which adjoins Hadham Road. However, I have not included such a requirement to the south of the site because any link would be required to cross third party land and there is no certainty that this would be achievable. Ultimately, the Council accept that this link is not necessary to make the development acceptable and so it would not meet the tests for conditions contained within the Framework.
37. A Construction Management Plan is required to minimise the impact of construction on the environment, local residents and the highway network, including the adjacent emergency services buildings and parking areas. Given the identified potential for archaeological remains within the site, a programme of archaeological work and recording is necessary.
38. I have not attached a condition requiring a water conservation standard of 110 litres per person per day as the Council has not identified a development plan policy to enact such a requirement and a more stringent requirement above the Building Regulations has not been justified. It would not be reasonable to impose such a requirement. Similarly, there is no policy requirement for construction training and there is insufficient evidence to suggest that this is necessary to make the development acceptable.
39. A scheme for soil decontamination is necessary in the interests of human health. Piling works and construction hours are controlled to protect the living conditions of neighbouring occupants.
40. I have altered the wording of the proposed conditions as necessary to improve their precision and otherwise ensure compliance with the tests for conditions contained within the Framework and Planning Practice Guidance.

Conclusions

41. The appeal sites represent an appropriate location for residential development and would be in accordance with Policies HSG2, BIS2 and BIS7 of the LP. Sufficient education capacity and sports pitch provision would remain in the town. The proposals accord with the development plan and would make a

valuable contribution to the Council's housing land supply. As such, planning permission should be granted without delay.

42. In light of the above, and having considered all other matters, the appeals are allowed.

Michael Boniface

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Nathalie Lieven QC	Counsel
Richard Lewis	Agent
Damian Ogbonnaya	Solicitor, HCC
Andrea Gilmour	Principal Planning Officer, HCC
Dick Bowler	Estate Manager, HCC
Simon Newland	Operations Director for Education, HCC

FOR THE LOCAL PLANNING AUTHORITY:

Kevin Steptoe	Head of Planning and Building Control
Jenny Pierce	Principal Planning Officer

INTERESTED PERSONS:

John Rhodes	President, Civic Federation
Tim Page	Local Ward Member and Chair of Planning Committee

DOCUMENTS SUBMITTED DURING THE HEARING

- 1 S106 agreement for Appeal A
- 2 S106 agreement for Appeal B
- 3 Statement in support of planning obligations (Appeal A)
- 4 Statement in support of planning obligations (Appeal B)
- 5 Planning obligations guidance – toolkit for Hertfordshire
- 6 E-mail from Sport England dated 26 June 2017
- 7 Policy extracts
- 8 Authority Monitoring Report 2015-16 (December 2016)
- 9 Extract from 'Appraisal of alternative site options', Pages 21-24
- 10 Pages 54-59 of the of the Pre-Submission District Plan Consultation 2016
- 11 Side agreement (Appeal A)
- 12 Side agreement (Appeal B)
- 13 Note on Sustainable Transport Contribution

Schedule of Conditions – Appeal A

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to the submission of any reserved matters application, a site wide phasing or sequencing programme shall be submitted to and approved in writing by the Local Planning Authority. The programme shall include details of the proposed sequence of development across the entire site, and the extent and location of any individual development phases including the type of development in each phase. The sequencing programme shall include details for the delivery of:-
 - i) access infrastructure including roads, footpaths, cycleways and parking areas;
 - ii) off-site highway infrastructure including highway improvements and the provision of a pedestrian refuge in Hadham Road to provide a crossing point to the eastbound bus stop on its north side;
 - iii) the timing and means of closure of any existing access point not included in the reserved matters;
 - iv) green infrastructure, play areas & SuDs.

No development shall commence until the phasing or sequencing programme has been approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved programme.
- 5) The reserved matters applications shall be accompanied by the following details:
 - i) The location and design of any recycling and refuse stores;
 - ii) The design, layout and materials of the internal roads, driveways, footways, drainage areas, car parking areas and cycleways;
 - iii) Detailed plans of all proposed new highway infrastructure or modifications to existing highway infrastructure;
 - iv) Written details to demonstrate that the impact of the noise, disturbance and activity from the adjacent emergency services centre on Patmore Close would not result in unacceptable harm to the amenities of the future residents of the application site having regard to the recommendations in the submitted Environmental Statement (Appendix 17.1, Sharps Redmore, November 2014).
 - v) The provision of secure cycle storage facilities for residents, and the design and location of cycle parking facilities which will not be provided as part of individual residential buildings;

- vi) Any parking, turning, manoeuvring, loading/unloading areas not being provided as part of individual residential, commercial or community buildings;
- vii) A Waste Management Plan;
- viii) Details of any external lighting, taking into account and mitigating the effect on hedgerows, trees and woodland sensitive for foraging and commuting bats; and
- ix) Details of the disposal of foul sewage.

The development shall be carried out in accordance with the details approved.

- 6) No development shall commence until approval of the details of the ground works comprising ground levels and any importation and exportation details have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out as approved.
- 7) The development hereby permitted shall be carried out in accordance with the following approved plans: 5051-100A, 5051-102B, 5051-104A and Hcc.hadhamrd.1/Hadham Rd.
- 8) No more than 10 dwellings shall be occupied until full details of the equipment and surfacing of the children's play area (which shall comprise 1 LEAP) and the timing of its provision have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 9) No development apart from access works shall commence until a Sustainable Drainage System (SuDS) Plan setting out a detailed and integrated surface water drainage system has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system will be based on an assessment of the potential for disposing of surface water by means of a SuDS as set out in the NPPF and National Planning Practice Guidance and shall take into account two documents submitted by Vincent & Gorbing for Herts CC: "Flood Risk Assessment (FRA) Stage 2, 548561SAK, 08 May 2008"; and "Drainage Strategy, K55023, 07 April 2008". The submitted details in the Plan shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and
 - iii) provide details of the management tasks and maintenance schedules required for the system for the lifetime of the development.Thereafter, the scheme shall be implemented in accordance with the approved timetable.
- 10) No building shall be occupied until a detailed Green Infrastructure and Biodiversity Management Plan (the GIBM Plan) has been submitted to and approved in writing by the Local Planning Authority. The GIBM Plan shall include:

- i) a description and evaluation of the features to be managed, including Skelleys Wood, and ecological trends and constraints on site;
- ii) long term design and management objectives, including management of the interface between people and nature; and
- iii) management tasks and maintenance schedules for all areas of public open space and landscaping.

Thereafter the development shall be carried out, managed, and maintained in accordance with the approved GIBM Plan.

- 11) No development shall commence until details of the specification and position of fencing and of any other measures to be taken for the protection from damage of any retained tree or hedging before or during the course of development have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
- 12) The reserved matters shall be accompanied by full details of both hard and soft landscape proposals. These details shall include, as appropriate:
 - i) Plans at a scale that will clearly identify the boundaries of all areas of green infrastructure, including play areas, amenity areas, boundary hedgerows, verges and other landscaped areas adjacent to highways, footpaths and cycleways, greenways and corridors;
 - ii) Proposed finished levels or contours;
 - iii) Positions, design, materials and type of boundary treatment to be erected;
 - iv) Hard surfacing materials;
 - v) Minor artefacts and structures (e.g. street furniture, refuse or other storage units and signs); and
 - vi) Soft landscaping details, to include:
 - (a) Planting plans including positions for all tree, hedge and shrub planting;
 - (b) Written specifications (including cultivation and other operations associated with plant and grass establishment);
 - (c) Schedules of plants, noting species, planting sizes, proposed numbers and densities; and
 - (d) Implementation timetables including time of planting.

The scheme shall be carried out and maintained as such in accordance with the approved details.
- 13) If, within a period of five years from the date of the planting of any tree approved as part of the landscaping reserved matters, or any tree planted in replacement for it, that tree is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written approval to any variation.
- 14) Prior to the commencement of development a Travel Plan for the development as a whole shall be submitted to and approved in writing by

the Local Planning Authority. The Travel Plan shall make provision for relevant surveys, review and monitoring mechanisms, targets, further mitigation, timescales, phasing programme and on-site management responsibilities. The Travel Plan shall include but not be limited to the following:

- i) Travel information through a community travel website and travel packs for residents when they move into their homes;
- ii) Provision of initial free travel for one year for residents using local bus services;
- iii) Provision of cycle training and a cycle buddy scheme;
- iv) Provision of a car sharing scheme operating through a community travel website to encourage residents to share cars;
- v) Commitment to undertake and submit for written approval an Annual Performance Report, which shall include remedies or measures to secure the objectives and targets of the Travel Plan commencing 9 months from the date of first occupation and for five years following the occupation of the last dwelling.

The Travel Plan shall be implemented as agreed and subject to regular review in accordance with the approved details.

- 15) The reserved matters shall include the provision of foot and cycle links between the site and Hadham Road at a point close to the North West corner of the site where it is adjacent to that road. The links shall be provided as part of the development and shall be made available for use prior to the first occupation of any residential development.
- 16) The reserved matters shall be accompanied by a Construction Management Plan which shall be submitted to, and approved in writing by, the Local Planning Authority, prior to the commencement of development. The Construction Management Plan shall provide for:
 - a) Hours of operation, including times when deliveries will be allowed;
 - b) Measures to minimise the number of vehicle trips by employees during construction;
 - c) The parking of vehicles of site operatives and visitors;
 - d) The number and routing of vehicles accessing / egressing the proposed development (including delivery vehicles and site access and including any haul routes). Also including, in consultation with the emergency services, arrangements and controls at the access to ensure that retained fire fighters have unobstructed access to their station on Patmore Close when responding to emergency call-out;
 - e) Management of traffic to reduce congestion;
 - f) Facilities and arrangements for loading and unloading of plant and materials;
 - g) Storage of plant and materials used in constructing the development;
 - h) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - i) Protocol for the handling of soil;
 - j) Wheel washing facilities;

- k) Measures to control the emission of dust and dirt during construction (including public highway);
- l) Measures to mitigate the noise from construction to benefit the occupiers of existing properties, based on the advice in Appendix 17.2 of the submitted Environmental Statement, prepared by Sharps Redmore and dated November 2014;
- m) Measures to prevent the pollution of any watercourse;
- n) Waste management, including a scheme for recycling/disposing of waste resulting from demolition and construction works;
- o) The management of any crossings of the public highway or rights of way; and
- p) Arrangements for consultations with neighbours and complaints management during construction.

Thereafter the construction of the development shall accord with the approved Construction Management Plan.

- 17) No dwelling shall be occupied until a management plan for Skelleys Wood, adjoining the site, has been submitted to and approved in writing by the Local Planning Authority, to include the following matters:
 - i) a survey and appraisal of the existing woodland, including its ecology, drainage, footpaths and condition;
 - ii) a strategy for a twenty year period that will create a woodland that is more biodiverse but which can also fulfil the function of a local amenity for the enjoyment of residents and walkers and provide footpath/cycle links into the wider network of footpaths and cycleways;
 - iii) opportunities to integrate woodland drainage with SuDS in the housing development hereby approved; and
 - iv) a management and investment plan that will fulfil the strategy, including responsibilities for its day to day delivery.

Thereafter the woodland will be managed in accordance with the plan.

- 18) No development shall take place within the site until a programme of archaeological work has been undertaken in accordance with a written scheme of investigation, which has been submitted to the Local Planning Authority and approved in writing. The development shall thereafter be carried out in accordance with the approved scheme and will be considered to be discharged when the Local Planning Authority has received and approved an archaeological report of all the required archaeological works and, if appropriate, a commitment to publication has been made.
- 19) The development hereby permitted shall not begin until a scheme to deal with contamination of land and/or groundwater has been submitted and approved by the LPA and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures, and should comply with BS10175:2011, unless the LPA dispenses with any such requirement specifically and in writing:
 - a) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or

groundwater contamination and its implications. The site investigation shall not be commenced until

(i) a desk-top study has been completed satisfying the requirements of paragraph (a) above;

(ii) The requirements of the LPA for site investigations have been fully established; and

(iii) The extent and methodology have been agreed in writing with the LPA.

Copies of a report on the completed site investigation shall be submitted to the LPA without delay on completion.

b) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the LPA prior to commencement and all requirements shall be implemented and completed to the satisfaction of the LPA by a competent person. No deviation shall be made from this scheme without the express written agreement of the LPA.

- 20) If percussion piling is considered the most appropriate method of foundation construction then prior to commencement of development, a justification statement detailing why percussion piling has been deemed the most appropriate method of foundation construction, and the proposed degree of control measures proposed, having considered the proximity of the site to noise sensitive premises, shall be submitted to and approved in writing by the Local Planning Authority. All piling works shall be carried out in accordance with the agreed details.
- 21) In connection with all site preparation and construction works, no plant or machinery shall be operated on the site or beyond it and in association with the site preparation and construction works outside the following hours: 0730hrs to 1830hrs on Monday to Friday, 0730hrs to and 1300hrs on Saturdays, and at no time on Sundays or public holidays unless otherwise agreed in writing by the Local Planning Authority.
- 22) Before any development is commenced:
- i) a preliminary bat roost assessment must be carried out of any trees to be removed to facilitate the development, in accordance with the Bat Conservation Trust's Good Practice Guidelines, 2nd Edition;
 - ii) if suitable features are identified for roosting or foraging further detailed surveys must be carried out (only during the months when the bats are active and not hibernating), including aerial inspections and dusk/dawn re-entry surveys;
 - iii) if protected species would be affected, a mitigation plan shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall accord with the approved mitigation plan.
- 23) Prior to the commencement of development, details of the reptile receptor site shall be submitted to and approved in writing by the Local Planning Authority, to include:
- i) the location and suitability as a receptor;
 - ii) provisions for its long-term management, including any necessary funding; and

- iii) a timetable for the relocation of the grass snakes and any other reptiles from the application site.

Once approved the development, including the relocation of grass snakes and any other reptiles shall be implemented in accordance with the approved details.

Schedule of Conditions – Appeal B

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to the submission of any reserved matters application, a site wide phasing or sequencing programme shall be submitted to and approved in writing by the Local Planning Authority. The programme shall include details of the proposed sequence of development across the entire site, and the extent and location of any individual development phases including the type of development in each phase. The sequencing programme shall include details for the delivery of:-
 - i) access infrastructure including roads, footpaths, cycleways and parking areas;
 - ii) off-site highway infrastructure including highway improvements and the provision of a pedestrian refuge in Hadham Road to provide a crossing point to the eastbound bus stop on its north side;
 - iii) the timing and means of closure of any existing access point not included in the reserved matters;
 - iv) green infrastructure, play areas & SuDs.

No development shall commence until the phasing or sequencing programme has been approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved programme.
- 5) The reserved matters applications shall be accompanied by the following details:
 - i) The location and design of any recycling and refuse stores;
 - ii) The design, layout and materials of the internal roads, driveways, footways, drainage areas, car parking areas and cycleways;
 - iii) Detailed plans of all proposed new highway infrastructure or modifications to existing highway infrastructure;
 - iv) The provision of secure cycle storage facilities for residents, and the design and location of cycle parking facilities which will not be provided as part of individual residential buildings;
 - v) Any parking, turning, manoeuvring, loading/unloading areas not being provided as part of individual residential, commercial or community buildings;
 - vi) A Waste Management Plan;
 - vii) Details of any external lighting, taking into account and mitigating the effect on hedgerows, trees and woodland sensitive for foraging and commuting bats; and

- viii) Details of the disposal of foul sewage.
- The development shall be carried out in accordance with the details approved.
- 6) No development shall commence until approval of the details of the ground works comprising ground levels and any importation and exportation details have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out as approved.
- 7) The development hereby permitted shall be carried out in accordance with the following approved plans: 5051-300A, 5051-302B, 5051-304A and Hcc.hadhamrd.1/Hadham Rd.
- 8) No development apart from access works shall commence until a Sustainable Drainage System (SuDS) Plan setting out a detailed and integrated surface water drainage system has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage system will be based on an assessment of the potential for disposing of surface water by means of a SuDS as set out in the NPPF and National Planning Practice Guidance and shall take into account two documents submitted by Vincent & Goring for Herts CC: "Flood Risk Assessment (FRA) Stage 2, 548561SAK, 08 May 2008"; and "Drainage Strategy, K55023, 07 April 2008". The submitted details in the Plan shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and
 - iii) provide details of the management tasks and maintenance schedules required for the system for the lifetime of the development.
- Thereafter, the scheme shall be implemented in accordance with the approved timetable.
- 9) No building shall be occupied until a detailed Green Infrastructure and Biodiversity Management Plan (the GIBM Plan) has been submitted to and approved in writing by the Local Planning Authority. The GIBM Plan shall include:
- i) a description and evaluation of the features to be managed, including Skelleys Wood, and ecological trends and constraints on site;
 - ii) long term design and management objectives, including management of the interface between people and nature; and
 - iii) management tasks and maintenance schedules for all areas of public open space and landscaping.
- Thereafter the development shall be carried out, managed, and maintained in accordance with the approved GIBM Plan.
- 10) No development shall commence until details of the specification and position of fencing and of any other measures to be taken for the protection from damage of any retained tree or hedging before or during the course of development have been submitted to and approved in

writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

- 11) The reserved matters shall be accompanied by full details of both hard and soft landscape proposals. These details shall include, as appropriate:
 - i) Plans at a scale that will clearly identify the boundaries of all areas of green infrastructure, including play areas, amenity areas, boundary hedgerows, verges and other landscaped areas adjacent to highways, footpaths and cycleways, greenways and corridors;
 - ii) Proposed finished levels or contours;
 - iii) Positions, design, materials and type of boundary treatment to be erected;
 - iv) Hard surfacing materials;
 - v) Minor artefacts and structures (e.g. street furniture, refuse or other storage units and signs); and
 - vi) Soft landscaping details, to include:
 - (a) Planting plans including positions for all tree, hedge and shrub planting;
 - (b) Written specifications (including cultivation and other operations associated with plant and grass establishment);
 - (c) Schedules of plants, noting species, planting sizes, proposed numbers and densities; and
 - (d) Implementation timetables including time of planting.

The scheme shall be carried out and maintained as such in accordance with the approved details.
- 12) If, within a period of five years from the date of the planting of any tree approved as part of the landscaping reserved matters, or any tree planted in replacement for it, that tree is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written approval to any variation.
- 13) Prior to the commencement of development a Travel Plan for the development as a whole shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall make provision for relevant surveys, review and monitoring mechanisms, targets, further mitigation, timescales, phasing programme and on-site management responsibilities. The Travel Plan shall include but not be limited to the following:
 - i) Travel information through a community travel website and travel packs for residents when they move into their homes;
 - ii) Provision of initial free travel for one year for residents using local bus services;
 - iii) Provision of cycle training and a cycle buddy scheme;
 - iv) Provision of a car sharing scheme operating through a community travel website to encourage residents to share cars;
 - v) Commitment to undertake and submit for written approval an Annual Performance Report, which shall include remedies or measures to

secure the objectives and targets of the Travel Plan commencing 9 months from the date of first occupation and for five years following the occupation of the last dwelling.

The Travel Plan shall be implemented as agreed and subject to regular review in accordance with the approved details.

- 14) The reserved matters shall be accompanied by a Construction Management Plan which shall be submitted to, and approved in writing by, the Local Planning Authority, prior to the commencement of development. The Construction Management Plan shall provide for:
- a) Hours of operation, including times when deliveries will be allowed;
 - b) Measures to minimise the number of vehicle trips by employees during construction;
 - c) The parking of vehicles of site operatives and visitors;
 - d) The number and routing of vehicles accessing / egressing the proposed development (including delivery vehicles and site access and including any haul routes). Also including, in consultation with the emergency services, arrangements and controls at the access to ensure that retained fire fighters have unobstructed access to their station on Patmore Close when responding to emergency call-out;
 - e) Management of traffic to reduce congestion;
 - f) Facilities and arrangements for loading and unloading of plant and materials;
 - g) Storage of plant and materials used in constructing the development;
 - h) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - i) Protocol for the handling of soil;
 - j) Wheel washing facilities;
 - k) Measures to control the emission of dust and dirt during construction (including public highway);
 - l) Measures to mitigate the noise from construction to benefit the occupiers of existing properties, based on the advice in Appendix 17.2 of the submitted Environmental Statement, prepared by Sharps Redmore and dated November 2014;
 - m) Measures to prevent the pollution of any watercourse;
 - n) Waste management, including a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - o) The management of any crossings of the public highway or rights of way; and
 - p) Arrangements for consultations with neighbours and complaints management during construction.

Thereafter the construction of the development shall accord with the approved Construction Management Plan.

- 15) No dwelling shall be occupied until a management plan for Skelleys Wood, adjoining the site, has been submitted to and approved in writing by the Local Planning Authority, to include the following matters:
- i) a survey and appraisal of the existing woodland, including its ecology, drainage, footpaths and condition;
 - ii) a strategy for a twenty year period that will create a woodland that is more biodiverse but which can also fulfil the function of a local amenity for the enjoyment of residents and walkers and provide footpath/cycle links into the wider network of footpaths and cycleways;
 - iii) opportunities to integrate woodland drainage with SuDS in the housing development hereby approved; and
 - iv) a management and investment plan that will fulfil the strategy, including responsibilities for its day to day delivery.

Thereafter the woodland will be managed in accordance with the plan.

- 16) No development shall take place within the site until a programme of archaeological work has been undertaken in accordance with a written scheme of investigation, which has been submitted to the Local Planning Authority and approved in writing. The development shall thereafter be carried out in accordance with the approved scheme and will be considered to be discharged when the Local Planning Authority has received and approved an archaeological report of all the required archaeological works and, if appropriate, a commitment to publication has been made.
- 17) The development hereby permitted shall not begin until a scheme to deal with contamination of land and/or groundwater has been submitted and approved by the LPA and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures, and should comply with BS10175:2011, unless the LPA dispenses with any such requirement specifically and in writing:
- a) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until
 - (i) a desk-top study has been completed satisfying the requirements of paragraph (a) above;
 - (ii) The requirements of the LPA for site investigations have been fully established; and
 - (iii) The extent and methodology have been agreed in writing with the LPA.
- Copies of a report on the completed site investigation shall be submitted to the LPA without delay on completion.
- b) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the LPA prior to commencement and all requirements shall be implemented and completed to the satisfaction of the LPA by a competent person. No deviation shall be made from this scheme without the express written agreement of the LPA.

- 18) If percussion piling is considered the most appropriate method of foundation construction then prior to commencement of development, a justification statement detailing why percussion piling has been deemed the most appropriate method of foundation construction, and the proposed degree of control measures proposed, having considered the proximity of the site to noise sensitive premises, shall be submitted to and approved in writing by the Local Planning Authority. All piling works shall be carried out in accordance with the agreed details.
- 19) In connection with all site preparation and construction works, no plant or machinery shall be operated on the site or beyond it and in association with the site preparation and construction works outside the following hours: 0730hrs to 1830hrs on Monday to Friday, 0730hrs to and 1300hrs on Saturdays, and at no time on Sundays or public holidays unless otherwise agreed in writing by the Local Planning Authority.
- 20) Before any development is commenced:
 - i) a preliminary bat roost assessment must be carried out of any trees to be removed to facilitate the development, in accordance with the Bat Conservation Trust's Good Practice Guidelines, 2nd Edition;
 - ii) if suitable features are identified for roosting or foraging further detailed surveys must be carried out (only during the months when the bats are active and not hibernating), including aerial inspections and dusk/dawn re-entry surveys;
 - iii) if protected species would be affected, a mitigation plan shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall accord with the approved mitigation plan.
- 21) Prior to the commencement of development, details of the reptile receptor site shall be submitted to and approved in writing by the Local Planning Authority, to include:
 - i) the location and suitability as a receptor;
 - ii) provisions for its long-term management, including any necessary funding; and
 - iii) a timetable for the relocation of the grass snakes and any other reptiles from the application site.

Once approved the development, including the relocation of grass snakes and any other reptiles shall be implemented in accordance with the approved details.

Appeal Decision

Site visit made on 19 June 2017

by **Chris Forrett BSc(Hons) DipTP MRTPI**

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

Decision date: 1st August 2017

Appeal Ref: APP/J1915/W/3169678

Van Hage Garden Centre, Amwell Hill, Great Amwell, Ware, Hertfordshire SG12 9RP

- 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 Ashley Palmier of Ventura Wildlife's Zoological Gardens against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2364/FUL, dated 14 October 2016, was refused by notice dated 30 December 2016.
 - The development proposed is described on the application from as retrospective planning application for the retention of the recently constructed new zoo facility.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) whether the proposal would be inappropriate development in the Green Belt;
 - (ii) the effect on the openness of the Green Belt;
 - (iii) the effect of the development on the character and appearance of the area; and
 - (iv) if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

3. Paragraph 79 of the National Planning Policy Framework (the Framework) outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
4. The site includes a number of buildings and fencing to enclosures and around the perimeter of the site. According to s336 of the 1990 Act, the term 'building' refers to any structure or erection. Therefore, this would apply to the fencing in and around the site and therefore the not inappropriate development

exemption for engineering operations (at paragraph 90 of the Framework) does not apply.

5. The Framework, at paragraph 89, sets out the categories of development which may be regarded as not inappropriate in the Green Belt. New buildings within the Green Belt are inappropriate unless, amongst other things, they represent outdoor recreation use which preserves the openness of the Green Belt (and does not conflict with the purposes of including land within it) or it represents the partial or complete re-development of previously developed sites (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt, and the purpose of including land within it, than the existing development ¹.
6. The Appellant has stated that the site was previously used as a general rubbish dump and was unsightly. From the photographs submitted with the appeal, it would appear that at least some of the site had been previously used land. However, this area appears to be limited to the area in the vicinity of the current zoo entrance. Furthermore, from the evidence before me a large part of the zoo site was previously an undeveloped field.
7. Given that the zoo could be considered to be an outdoor recreational use, and that part of the site may be previously developed land, it follows that in order to determine whether it would be inappropriate development it is necessary to consider whether or not the proposal would have a greater impact on openness than what was at the site prior to the development taking place.

Openness of the Green Belt

8. The zoo site has been developed to include a number of animal enclosures and structures including some self-contained buildings. From the evidence before me in relation to the previous condition of the land and built form, the amount of structures and fencing associated with the zoo has had an urbanising effect on the area, despite the presence of the adjoining garden centre and associated structures.
9. Given the extent of the structures, including the height and bulk of some of the enclosures (including those housing the tropical wader birds, lorikeets, Cuban hutia, lemurs and fossa), the development has had a significant impact on the openness of the Green Belt by introducing many additional structures and much fencing.
10. For the above reasons, given the loss of openness to the Green Belt, it follows that in accordance with paragraph 89 of the Framework the proposal would be inappropriate development and would impact on the Green Belt purpose of safeguarding the countryside from encroachment.

Character and appearance

11. The character of the area is dominated by the adjoining garden centre and associated structures and parking, including the large canopies. However, beyond the confines of the centre to the south and east there is little development and the land has a rural feel and aspect.

¹ Second and sixth bullet points of paragraph 89 of the Framework

12. The development has extended the built form further into the rural aspect of the area with the resultant loss of greenery despite the presence of some landscape screening. This, combined with the structures in the former field area of the site, has led to some harm to the overall character and appearance of the area through the loss of open undeveloped countryside.
13. In respect of the area of the zoo around the entrance, these buildings are physically seen in the context of the adjoining garden centre buildings and as such are less harmful to the overall character and appearance of the area. However, this does not outweigh the harm I have already identified.
14. For the above reasons, the development has had some harm to the character and appearance of the area contrary to Policy ENV1 of the East Herts Local Plan Second Review (2007) (LP) which amongst other matters seeks to ensure that development is compatible with the surrounding area and the character and appearance of the locality.

Other matters

15. The Appellant has provided supporting information which outlines the support of several organisations including the International Zoo Veterinary Group, Zoo Duisburg, the Zoological Society of Hertfordshire, the University of Hertfordshire, Oaklands College, and Visit Herts. Other letters of support have also been provided. From this information it is clear that the zoo does provide some benefits to the area and to zoology and conservation, including education programmes. It is also noted that the zoo employs the equivalent of seven full time workers as well as 15 volunteers and that all the new buildings and structures have been created from FSC sustainable timber. All of these matters are in favour of the development.

Green Belt balance

16. Paragraph 87 of the Framework sets out the general presumption against inappropriate development within the Green Belt. It states that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
17. I have concluded that the proposal would be inappropriate development (as a result of the adverse effect on openness) and would therefore, by definition, be harmful to the Green Belt. There would also be some harm to the character and appearance of the area as a result of further development into the countryside.
18. In considering the substantial weight given to Green Belt, the benefits outlined by the Appellant do not clearly outweigh the harm to the Green Belt. Therefore there are no very special circumstances to justify the proposal and the development would conflict with the Framework and Policies GBC1 and GBC 4 of the LP.

Conclusion

19. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR



Appeal Decision

Site visit made on 7 August 2017

by **Jonathan Manning BSc (Hons) MA MRTPI**

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

Decision date: 16 August 2017

Appeal Ref: APP/J1915/D/17/3178076

2 Mayflower Close, Hertingfordbury, Hertford, SG14 2LH

- 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 B & K Musk against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0206/HH, dated 27 January 2017, was refused by notice dated 24 March 2017.
 - The development proposed is two storey side extension, involving demolition of existing double garage and porch. First floor and ground floor window openings and alterations to fenestration.
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Decision

1. The appeal is allowed and planning permission is granted for two storey side extension, involving demolition of existing double garage and porch. First floor and ground floor window openings and alterations to fenestration, at 2 Mayflower Close, Hertingfordbury, Hertford, SG14 2LH, in accordance with the terms of application Ref: 3/17/0206/HH, dated 27 January 2017, subject to the planning conditions in the attached schedule.

Main Issue

2. The appeal site is located within the Green Belt and therefore the main issue of the appeal is whether the proposal would be inappropriate development for the purposes of local and national policy.

Reasons

3. The National Planning Policy Framework (the Framework) establishes that new buildings within the Green Belt are inappropriate unless, amongst other things, it involves the extension of a building. This is provided that it does not result in disproportionate additions over and above the original building.
4. Policy GBC1 'Appropriate Development in the Green Belt' of the East Herts Local Plan Second Review (2007) (the LP) sets out that permission will not be given for inappropriate development unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm. The policy also states that the construction of new buildings on land falling within the Green Belt will be inappropriate unless it is for a number of purposes, which includes limited extensions or alterations to existing dwellings in accordance with Policy ENV5. Policy ENV5 of the LP identifies that outside the main settlements and Category 1 and 2 Villages, an extension to a dwelling 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. I consider that despite some inconsistencies, Policies GBC1 and ENV5 are broadly consistent with the Framework and therefore, in accordance with Paragraph 215 of the Framework, can be afforded a reasonable level of weight.

5. The scheme would result in an increase in floorspace of 59.8% over the original dwelling (utilising the Council's calculations). The Council are of the view that this level of percentage increase would result in a disproportionate addition. The Framework and the development plan policies identified above, do not provide any guidance or suggest a threshold on what constitutes a disproportionate addition. It is therefore a matter of judgement for the decision maker.
6. Whilst an increase of 59.8% in floorspace is a significant extension, this must be considered against the size and form of the original dwelling. The appeal dwelling is orientated differently to the other existing properties in Mayflower Close, which all have their front elevations facing onto the road. From the street scene, the width and bulk of the other dwellings can therefore be fully appreciated. However, the appeal dwelling has its gable end facing onto the road and although it has an attached double garage and porch that faces onto the road, this is single storey in height and has a flat roof. As a consequence of this, when viewed from the street scene, I consider that the appeal dwelling appears noticeably smaller than its neighbouring properties.
7. The proposal would result in the demolition of the existing double garage and porch and the construction of a two-storey extension. The two storey extension, although greater in height, would be smaller in width than the existing double garage and porch, when viewed from the road. I consider that the resulting appeal dwelling would have a well-balanced appearance and the proposed extension would not be overly prominent in the street scene or dominate the host dwelling. I also observed that the existing properties within Mayflower Close are all large detached dwellings and I consider that the extended appeal dwelling would complement their scale. Given all these matters, I consider that the proposed extension would not result in a disproportionate addition over the size of the original dwelling.
8. The appellant has provided extracts from two recent appeal decisions¹ within the district, where the Inspectors of those cases found that, in their specific circumstances, additions totalling an increase in floorspace of 60% and 61% respectively were not disproportionate. Whilst, each case is considered on its own merits, this nonetheless, supports my findings that in certain circumstances such percentage increases in floorspace can be considered proportionate.
9. I conclude that the proposed extension would not be inappropriate development within the Green Belt. The identification, in Paragraph 89 of the Framework, that an enlargement to an original dwelling that would not be disproportionate does not represent inappropriate development, in my view, represents an acknowledgement that such development should not be considered harmful to the openness of the Green Belt. Given these findings,

¹ APP/J1915/D/17/3169030, dated 7 April 2017 & APP/J1915/D/17/3169260, dated 2 May 2017.

the scheme complies with Paragraph 89 of the Framework and Policies GBC1 and ENV5 of the LP.

Other matters

10. The Council, along with any interested parties have not raised any other concerns with regard to the proposed development. From the evidence before me, I see no reason to take a different view.

Planning Conditions

11. I have considered the Council's suggested conditions against the tests set out within the Framework and the advice provided by the Government's Planning Practice Guidance and have amended them where required, without altering the purpose or intent of the condition. As well as the standard time limit condition (1), a condition is necessary to ensure the development is undertaken in accordance with the approved plans to secure certainty (2). To ensure the suitable appearance of the scheme, conditions (3 and 4) are necessary. Condition (5) is imposed to protect the living conditions of the occupants of No 3 Mayflower Close. To ensure the protection of existing trees and hedges on the appeal site, condition (6) is required.
12. Condition (4) is a pre-commencement activity. I am satisfied that the requirement of the condition is necessary to make the development acceptable in planning terms and it would have been otherwise necessary to refuse planning permission.

Conclusion

13. For the reasons set out above and having regard to all other matters raised, the scheme does not represent inappropriate development in the Green Belt. Given this and the absence of any other harm, the proposal complies with the development plan when taken as a whole and the appeal is therefore allowed.

Jonathan Manning

INSPECTOR

Schedule of Planning Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development shall be carried out in accordance with the following approved plan: 12015-P-200-C (Extensions and Remodelling), dated 23 January 2017.
- 3) 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.
- 4) Prior to the commencement of the development, full details of both hard and soft landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. These details shall include, as appropriate: (a) Car parking layouts (b) Hard surfacing (c) Planting plans (d) Written specifications (including cultivation and other operations associated with plant and grass establishment) (e) Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate (f) Implementation timetables. The development shall be undertaken in accordance with the approved details.
- 5) The extension hereby permitted shall not be occupied until the window opening on the eastern elevation serving an en-suite (facing No. 3 Mayflower Close) has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. The window shall be retained in such condition thereafter.
- 6) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, for the duration of the works on site and until at least five years following the completion of the approved development. In the event that any tree or hedging becomes damaged, dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and by no later than the end of the first available planting season, with trees of a size, species, number and position to be agreed with the Local Planning Authority.



Appeal Decision

Site visit made on 11 July 2017

by **F Rafiq BSc (Hons), MCD, MRTPI**

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

Decision date: 28 July 2017

Appeal Ref: APP/J1915/D/17/3174987
Bramley, The Ford, Little Hadham, SG11 2BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Mahon against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2707/HH dated 3 December 2016 was refused by notice dated 10 February 2017.
 - The development proposed is a loft conversion, raising the original roof height by 600mm and construction 2 no. pitched roof dormer windows.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development (1) on the character and appearance of the host dwelling and whether it would preserve or enhance the character or appearance of the Conservation Area, and (2) on protected species.

Reasons

Character and Appearance

3. The appeal property is a detached two storey dwelling situated in Little Hadham, within a Conservation Area. The surrounding properties have a variety of different forms and are set at varying distances from the road. The presence of trees and vegetation in front garden areas is evident in views along the highway. The wider locality, beyond the rear boundary of the site is made up of fields, which together with the aforementioned factors, gives the area a spacious, rural character.
 4. The proposal seeks consent to raise the height of the roof and for a rear dormer window. The dormer would have a width of around 7.5m and a projection of around 2.3m from the rear roof slope. Whilst I acknowledge its large size, it would be set noticeably away from the gable ends of the property and also down from the ridge. Given the size of the host dwelling, I do not consider that the dormer would dominate the rear roof slope. I acknowledge that the flat roof design differs from the roof form of the host dwelling and others in the
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locality. However, a noticeable proportion of the rear roof slope would have a traditional pitched form. I note the presence of a right of way to the rear, but I was able to see at the time of my visit, that dense vegetation largely screens the rear of the site from the area beyond.

5. The Council raise no objection to the raising of the height of the roof or the insertion of a side facing window at second floor level. Given the set back of the appeal property from the highway and the variation in the roof heights in the area, I have no reason to disagree with this position.
6. I conclude that the development would not impact adversely on the character and appearance of the host property and would preserve the character and appearance of the Conservation Area. I therefore find that there would be no conflict with Policies ENV1, ENV5, ENV6 and BH5 of the East Herts Local Plan Second Review (Local Plan), which seek, amongst other matters, a high standard of design and proposals to be sympathetic to the character and appearance of the area. There would also be no conflict with Sections 7 and 12 of the National Planning Policy Framework (Framework).

Protected Species

7. The second reason for refusal relates to the lack of a bat assessment being submitted with the appeal application. Hertfordshire Ecology state that if bats are present, they will be affected given the significant impact to the existing roof.
8. The appellant has stated that a bat survey was not a condition of validating or determining the application and is a matter that could be addressed by a condition. However, it is necessary to establish the presence or otherwise of protected species prior to the granting of planning permission, as there cannot be certainty about the outcome of the survey/assessment and whether or not suitable mitigation (if required) could be put in place.
9. Although Hertfordshire Ecology have suggested a condition, their consultation response is clear that information should be submitted prior to the determination of the application. In the absence of a survey/assessment and given the location of the site close to a River and a Local Wildlife site, which are likely to be important habitats for foraging and commuting bats, I cannot be sure that bats would not be affected by the proposal.
10. I appreciate the appellant's comments that a survey/assessment would need to be undertaken without any certainty on other planning considerations, such as the acceptability of the size of the dormer. However, for the reasons set out above, I do not consider that a condition would be appropriate and that information in relation to bats is required prior to the determination of the appeal application.
11. Accordingly, in the absence of this information, it has not been demonstrated that the development would not have a harmful effect on protected species. The proposal would be contrary to Policy ENV16 of the Local Plan which states that development which may have an adverse effect on protected species will only be permitted where harm to the species can be avoided. The proposal would also be contrary to Paragraph 118 of the Framework.

Conclusion

12. I have found in the appellant's favour in relation to the issue of the effect on the character and appearance of the host dwelling and the Conservation Area. However, I conclude that the appeal proposal would in the absence of information on bats, be unacceptable in relation to protected species.
13. For the reasons given above and having considered all other matters raised, including compliance with Building Regulations and improvements to the insulation of the property, as well as the proposal not having any adverse effect on the living conditions of neighbouring occupants, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR

Appeal Decisions

Site visit made on 20 June 2017

by **Paul Freer BA (Hons) LLM MRTPI**

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

Decision date: 26 July 2017

Appeals A and B Refs: APP/J1915/C/17/3167293 & 3167803 Land at Strattons Folly, Bucks Alley, Little Berkhamsted, SG13 8LR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr & Mrs David and Marion Cooper against an enforcement notice issued by East Hertfordshire District Council.
 - The enforcement notice was issued on 16 December 2016.
 - The breach of planning control as alleged in the notice is the unauthorised erection of a wooden building in the garden for use as a studio.
 - The requirements of the notice are to remove the unauthorised building.
 - The period for compliance with the requirements is four months.
 - The appeals are proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Appeal C Ref: APP/J1915/D/16/3161321 Strattons Folly, Bucks Alley, Little Berkhamsted, Hertfordshire SG13 8LR

- 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 David and Marion Cooper against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/1177/HH, dated 20 May 2016, was refused by notice dated 27 July 2016.
 - The development proposed is described as a small wooden building in garden for use as a studio.
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Summary Decision: Appeals A and B are dismissed and the enforcement is upheld as corrected and varied. Appeal C is dismissed.

Procedural Matters

1. The address of the appeal site is stated in the enforcement notice and the Council's Decision Notice refusing planning permission as 'Strattons Folly'. The appellants also refer to the building as 'Strattons Folly' on the planning application form and on all appeal documentation. However, the address appears in some documents, including the List Entry Summary, as 'Stratton's Tower'. There is no dispute in terms of the site to which these appeals relate, and I will therefore adopt the address of 'Strattons Folly' in my Decision.
2. The enforcement notice is concerned with a breach of planning control rather than other areas of legislation. The breach of planning control alleged at paragraph 3 of the notice should therefore refer to the erection of a wooden building in the garden for use as a studio 'without planning permission' rather than as 'unauthorised' as stated in the notice.

3. The requirement at paragraph 5 of the notice is to remove the unauthorised building. It follows from the above that the word 'unauthorised' should be deleted from that requirement. Moreover, there is a slight mis-match between the breach of planning control as alleged in the notice and the requirements to comply with it, insofar as the former refers to a 'wooden building for use as a studio' and the latter simply to a 'building'. It is evident that the appellant has understood what is required of him to comply with the notice and the slight mis-match in the wording of the notice is therefore of no practical consequence.
4. Nevertheless, it is important that an enforcement notice is internally consistent. Furthermore, the term 'for use as a studio' is not only purely descriptive in this context, it is also subjective and open to interpretation. In the interest of consistency, I shall correct the breach of planning control alleged in the notice to simply refer to a 'wooden building'.
5. I am satisfied that no injustice would be caused by correcting the notice in these respects.

Appeals A and B: the appeal on ground (a), and Appeal C

6. The ground of appeal on ground (a) is that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted.
7. The appeal property is a Grade II* listed building situated within the Little Berkhamsted Conservation Area. The land is also within the Green Belt. The Council considers that the wooden building subject these appeals is a modest structure and does not disproportionately alter the size of the original dwelling house. The Council therefore considers that the wooden building is not inappropriate development in the Green Belt. Having regard to paragraph 89 of the National Planning Policy Framework (Framework), I see no reason to take a different view. In reaching that conclusion, I am mindful of the proximity of the wooden building to the main building. Consequently, although detached from it, it is reasonable to treat the wooden building as an extension to Strattons Folly for the purposes of paragraph 89 of the Framework.
8. The Council has stated one substantive reason for issuing the enforcement notice, from which the main issue raised is the effect of the wooden building on the setting of Strattons Folly, a Grade II* listed building. Appeal C raises the same main issue, and it is therefore convenient to consider all three appeals together in relation to this main issue.

Setting of the Grade II listed building*

9. The List Entry Summary describes this Grade II* listed building as an observatory tower dating to 1789, noting that it was traditionally built to view ships on the River Thames but more probably for astronomical observation. The List Entry Summary provides a detailed description of the building noting the octagonal lower stage and round upper stages, the type and origin of the materials from which it was constructed, the window openings and the architectural detailing.
10. The appellants point to a number of facts in the List Entry Summary which they consider to be incorrect. Nevertheless, the List Entry Summary is prepared by Historic England and, until such time as it is formally revised, I must take this

as the definitive record of the building. In any event, the alleged errors to which the appellants draw my attention are not significant in the overall context of the listing and do not challenge the principal architectural features identified in the List Entry Summary.

11. The appellants also question whether Strattons Folly is of architectural interest, referencing the limited coverage given to the building by Pevsner and the commentary in 'Follies: A National Trust Guide'. However, whilst the List Entry Summary does not specifically state whether the building was listed for its special architectural interest or its historic interest, on my reading the detailed account of the building's history and architectural features suggests that both were considerations in the building being designated for listing.
12. Moreover, although the commentary in 'Follies: A National Trust Guide' is not complimentary in terms of the architectural quality of the building, to my mind that does not equate to a lack of architectural interest. Consequently, whereas 'Follies: A National Trust Guide' likens the building to a "Soane scribble of four unequal parts" and describes the building as in some aspects "looking like early industrial architecture", that does not necessarily imply that the building is not of architectural interest. Indeed, in my opinion, these idiosyncrasies add to the interest of the building as an architectural composition.
13. I have a duty under section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special regard to the desirability of preserving the listed building or its setting. In assessing the effect, if any, of the wooden building on the setting of Strattons Folly, it is first necessary assess whether, how and to what degree the setting makes a contribution to the significance of the heritage asset. In this context, the setting of the listed building may be described as the surroundings in which that heritage asset is experienced.
14. In my judgment, the setting of Strattons Folly is in two parts. Because of its height, the upper parts of Strattons Folly are visible over a considerable distance from several vantage points. In these views, the setting of the listed building is the surrounding countryside, including the wider topography and tree cover. Because of its modest height and the presence of intervening tree cover, the wooden building clearly has no effect on the setting of the listed building in these longer views.
15. However, Strattons Folly also has a more immediate setting. This setting comprises a relatively small and enclosed parcel of land that forms the garden space for the dwelling. The ground level of the garden falls away to the south-east, and the base of Strattons Folly sits on a terrace at a higher ground level than some parts of the garden that surround it. The garden is largely enclosed by trees and vegetation, such that views of Strattons Folly from outside of the site are restricted to glimpsed views through vegetation. Moreover, in such views, typically only the lower parts of Strattons Folly are visible.
16. Within the site and the immediate setting of this heritage asset, it is possible to view the full height of Strattons Folly and appreciate all the architectural features that it exhibits. Nevertheless, in these closer views the focus of attention tends towards the base of the building and in particular the octagonal lower stage. In views from the lower part of the garden, the terrace on which Strattons Folly sits forms a significant component of its setting.

17. In my assessment, the immediate setting of Strattons Folly makes an important contribution to the significance of the heritage asset insofar as it facilitates an appreciation of the full architectural composition of the listed building and the likely purposes for which it was originally constructed. The importance of the immediate setting is exacerbated by the fact that the full height and architectural composition is not readily appreciated in longer views of the building due to the presence of intervening tree cover. It follows that the architectural and historic interest of the listed building may only be fully appreciated at close quarters, and that in closer views the setting of Strattons Folly makes an important contribution to the significance of this heritage asset.
18. The wooden building subject to these appeals stands on the terrace, adjacent to the octagonal lower stage of Strattons Folly and in close proximity to it. With a width of some 4.2 metres and a height of some 2.5 metres, the overall dimensions of the wooden building are modest in relation to Strattons Folly itself. In particular, the height of the wooden building is considerably less than that of Strattons Folly. The overall dimensions of the wooden building are also significantly less than the extension to the opposite side of the building.
19. Nevertheless, in closer views, by reason of its design, the materials from which it is constructed and its proximity to the heritage asset, the wooden building is a prominent structure that distracts attention away from the heritage asset as whole. In these views, for the same reasons, the wooden building competes with the octagonal base of Strattons Folly not least because, unlike the extension on the opposite side of the building, the angular shape of the wooden building contrasts with and visually jars against the octagonal shape of the lower stage to which it is close proximity.
20. For these reasons, the wooden building impinges into and detracts from closer views of the listed building. The corollary is that the wooden building detracts from the setting of Strattons Folly that in turn makes an important contribution to the significance of this heritage asset.
21. I conclude that the wooden building unacceptably harms the setting of Strattons Folly, a Grade II* listed building. The development is therefore contrary to Policy ENV1 of the East Herts Local Plan Second Review (Local Plan). This policy indicates, amongst other things, that all development will be expected to be of high standard of design that demonstrates compatibility with the host structure.
22. The reason for issuing the enforcement notice and the reason for refusing planning permission also cite the development as being contrary to policies ENV5 and ENV6 of the Local Plan. However, on my reading, these policies must be read together and relate only to the specific types of extension set out in Policy ENV6. The wooden building subject to these appeals does not fall into any of the specific types of extension set out Policy in ENV6. Consequently, in my view, these policies are not directly relevant to the matter before me and for that reason I afford them very little weight in the context of these appeals.
23. In terms of paragraph 134 of the Framework, the harm to the setting of this heritage asset can be described as "less than substantial" harm to the significance of the heritage asset. Nevertheless, given the statutory duty under section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990, that harm carries considerable importance and weight. In accordance with paragraph 134 of the Framework, it is necessary to consider whether

there are any public benefits arising from the development that are sufficient to outweigh that harm.

24. In this respect, the appellants point out that a wooden shed had previously stood on the site in broadly the same position as the wooden building now on the site, but directly against the wall of Strattons Folly. During the period when that wooden shed was in situ, the condition of the brickwork at the base of the tower deteriorated. This is not disputed by the Council. The new wooden building has been positioned some 0.8 metres from the base of the tower, such that repairs can now be undertaken to the damaged brickwork. The appellants consider that the repairs to this damaged section of brickwork will ensure the longevity of Strattons Folly, and is therefore a public benefit arising from the development.
25. The Planning Practice Guidance indicates that reducing risks to a heritage asset is capable of being a public benefit that can outweigh less than substantial harm to that heritage asset. I am also mindful that paragraph 132 of the Framework indicates that the conservation of a heritage asset should be afforded great weight. However, the deterioration of the brickwork at the base of the tower is very localised. I have been provided with no technical evidence or structural surveys to indicate that the heritage asset is actually at risk as a result of this deterioration of the brickwork in one part of the structure.
26. I recognise that the opportunity to repair the damaged brickwork and thereby reduce the risk to the listed building is a public benefit arising from the development. Nevertheless, on the evidence available to me I am not persuaded that it is a public benefit of sufficient weight to outweigh the harm to the setting of the listed building, even though in this case that harm may be regarded as being less than substantial in terms of paragraph 134 of the Framework. In my opinion, that harm is sufficient reason by itself to refuse planning permission.

Other Matters

27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. I have found that the wooden building fails to accord with the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.
28. The appellants explain that Mr Cooper's health has deteriorated in recent years, and have provided evidence from his medical practitioners to support that. His bedroom was previously within Strattons Folly and was reached by ascending a total of 87 steps up a narrow spiral staircase within the tower itself. Following a fall down some 30 steps of this staircase a year or so ago, Mr Cooper has lost confidence in his ability to climb this staircase and is no longer able to reach his bedroom in the tower. Accordingly, Mr Cooper reverted to sleeping in the living room in the side extension at ground floor level. This was found not to be satisfactory but the wooden building now subject to these appeals has subsequently provided ideal sleeping accommodation for Mr Cooper. It has also been used more recently as a treatment room.

29. As part of my site visit, I was invited to climb the spiral staircase within Strattons Folly. In doing so, it was immediately apparent to me that the narrowness and steepness of the spiral staircase would present significant difficulty for someone not physically fit and lacking confidence in their mobility. I therefore have no difficulty in accepting that accessing his bedroom within the tower is no longer a realistic proposition for Mr Cooper.
30. I accept that the personal circumstances of the appellants, and Mr Cooper in particular, are a material consideration in determining these appeals. I am also sympathetic to the circumstances in which Mr Cooper now finds himself. However, in considering this matter, I must have regard to the accommodation provided by the site as whole and not just that provided by the wooden building. In this context, I note that a single storey extension has been constructed to the side of Strattons Folly, on the opposite side to the wooden building, pursuant to a planning permission granted in May 1998 (Council Ref: 3/98/0466/FP). The description of the development permitted refers to the purpose of providing additional living accommodation at ground floor level.
31. At the time of my site visit, the space provided by that extension was being used partly as a living/dining room and partly as a study/library. I acknowledge that Mr Cooper found setting up a bed in that space not be satisfactory. However, the space provided by the extension is at ground floor level and adjacent to the kitchen area in the base of the tower. I have not been provided with any detailed explanation as to why that space could not be adapted, on a temporary or permanent basis, to provide suitable sleeping and bathroom facilities that could be accessed without difficulty by Mr Cooper. In the absence of any such explanation, I must afford the personal circumstances of the appellants only limited weight.
32. The appellants explain that the space adjacent to the tower now occupied by the wooden building subject to these appeals was previously occupied by a wooden shed. I have been provided with photographs that show that wooden shed when in situ. Before that, I understand that the space may have been occupied by a structure constructed of breeze-blocks.
33. Neither of these buildings appears to have had the benefit of planning permission. Given that an outbuilding in this position would be within the curtilage of a listed building, normal permitted development rights for outbuildings do not apply in relation to this property. Planning permission would therefore have been required for any outbuilding in that position but was neither sought nor granted. It follows that neither of these outbuildings would have been lawful in planning terms.
34. Although I have seen photographs of the later outbuilding, I did not see that building when in situ. It would therefore not be appropriate for me to reach any definitive conclusion as to the effect, if any, that building had on the setting of Strattons Folly as a statutorily listed building. However, because neither of the two previous outbuildings appears to have had the benefit of planning permission, neither may be regarded as being lawful in planning terms. Consequently, irrespective of whether or not they caused harm to the setting of the listed building, they cannot act as any precedent for the wooden building now subject to these appeals. For that reason, I attach only limited weight to the presence of these previous structures.

35. Even though I have concluded that the opportunity to repair damaged brickwork at the base of the tower arising from the location of the wooden building is not a public benefit of sufficient weight to outweigh the harm to the setting of the listed building in terms of paragraph 134 of the Framework, it is nonetheless a material consideration to which I must attach weight in this balancing exercise under Section 38(6) of the 2004 Act. In accordance with paragraph 132 of the Framework, the conservation of the heritage asset is a matter to which I would ordinarily afford great weight but, in the absence of evidence that the listed building is actually at risk, in the particular circumstances of this case I am only able to afford it limited weight.
36. The appeal site is within the Little Berkhamsted Conservation Area. The Council has not raised any concerns about the effect of the wooden building on the character and appearance of this conservation area. Nevertheless, I have a duty under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special attention to the desirability of at least preserving the character and appearance of the conservation area.
37. The Little Berkhamsted Conservation Area follows a linear form based upon the alignment of the principal roads that run through it. The character and appearance of the conservation area is based, in part, on the quality of the buildings within it. The latter includes a number of statutorily listed buildings, of which Strattons Folly is one, but also includes a number of non-listed buildings that make an important contribution to the character and appearance of the conservation area. Although the focus may be said to be the church and the War Memorial, high quality buildings are to be found in dispersed locations throughout the conservation area. The dispersion of high quality buildings throughout the conservation area is therefore one of the key components of its character and appearance.
38. Within this context, Strattons Folly plays an important role and the eastern end of the conservation area is dominated by the presence of the upper parts of the building in many views. In that respect, Strattons Folly makes a positive contribution to the character and appearance of the conservation area. However, this contribution is predicated on the upper sections of the building: the lower parts of the building are not widely visible from within the wider conservation area. The wooden building has no effect on the views of the upper parts of Strattons Folly from the wider conservation area. I am therefore satisfied that the wooden building preserves the character and appearance of the Little Berkhamsted Conservation Area.
39. The appellants make reference to the comments made by the Council's Conservation and Urban Design Team in relation to the wooden building. The initial consultation response, dated 9 June 2016, raised no objection to the wooden building. I understand, however, that this initial response was made on the mistaken belief that the buildings that were previously on the site carried weight as a material consideration in the planning application to retain the wooden building. Accordingly, as I understand it, the case officer for that planning application sought a second consultation response based on the correct position in relation to the status of the previous buildings on the site. On that occasion, the Conservation and Urban Design Team recommended that permission be refused.

40. It is unfortunate that the Council's Conservation and Urban Design Team were not made aware of the correct status of the previous buildings on the site at the time of the initial consultation, and I can understand the appellants' concerns in relation to the change in the advice received from the Conservation and Urban Design Team. Nevertheless, in my view, the second consultation response is more considered and is based on the correct assessment of the weight to be attached to the previous buildings on the site. I must therefore afford the second consultation response the appropriate weight. In this respect, I am also mindful that even in the initial consultation response dated 9 June 2016 the wooden building is described as being "not considered to be of merit". The Council's Conservation and Urban Design Team has therefore been consistent in its appraisal of the planning merits of the wooden building, and consequently it is apparent that it was only the initial incorrect assessment if the weight to be afforded to the previous structures that resulted in a recommendation for approval in the first instance.
41. The appellants have requested that, should I reject their appeal on its merits, I consider allowing the retention of the wooden building for the remainder of their lives, on the understanding that the building would be removed after they decease. I have given that request careful consideration. The appellants have not provided a planning obligation or other legal undertaking to secure the proposed arrangement, and consequently only means through which that arrangement could be secured is through the imposition of a condition. I have therefore approached this matter on that basis.
42. The Planning Practice Guidance indicates that a condition used to grant planning permission solely on the grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building but might, for example, result from enforcement action which would otherwise cause individual hardship. In relation to this case, the question raised is therefore whether not imposing the condition suggested by the appellants would cause individual hardship to Mr Cooper.
43. Answering this question requires a delicate balancing exercise. I am mindful that not having the wooden building to provide, amongst other things, a treatment room and an accessible bedroom would cause hardship to Mr Cooper as an individual. That is a matter to which I attach considerable weight, not only as a material consideration in its own right, but also in relation to Mr Cooper's rights under the Human Rights Act. However, against that, I am mindful that the permanent ground floor extension provides a potential solution to meeting Mr Cooper's needs without incurring harm to the setting of the listed building.
44. In weighing that balance, I consider that the latter potentially provides a solution whereby no hardship would be caused to Mr Copper as an individual. At least, I have been provided with no evidence to indicate that this would not be viable solution. I am therefore not persuaded that the particular circumstances in this case meet the very stringent test set out in the Planning Practice Guidance. Similarly and for the same reason, I satisfied that any interference with Mr Cooper's rights under the Human Rights Act would be justified in the public interest in terms of the harm to the setting of the listed building. Consequently, I am unable to accede to the appellants request to allow the retention of the wooden building for the remainder of their lives.

45. Having regard to the above, I find that the wooden building is contrary to policies in the development plan and that there are no material considerations of sufficient weight to indicate that the deemed planning application should be determined otherwise than in accordance with it. I therefore conclude that planning permission ought not to be granted. Accordingly, the appeals on ground (a) fail and Appeal C will be dismissed.

Appeals A and B: the appeal on ground (g)

46. The ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The period for compliance specified in the notice is four months.

47. The essence of the appellants' appeal on this ground is that they should be afforded a sufficient period of time to seek an alternative solution. In that context, the appellants suggest that one probable result of the appeal being dismissed is that they will have to give up their home and find alternative accommodation. A period of 12 months is therefore sought.

48. As indicated above, it seems to me that one possible solution to providing the accommodation to meet the needs of Mr Cooper is to convert or utilise the space provided by the permanent ground floor extension to Strattons Folly. I am, however, mindful that this could require some internal alterations. This in turn may require various consents under the Planning Acts and the Building Regulations, potentially requiring discussions with the Council. I therefore accept that an appropriate period of time must be allowed for this potential solution to be explored and, should it be found to be a workable solution, implemented. Furthermore, provision must also be factored in for finding alternative accommodation should that solution not prove viable or possible.

49. Taking all these factors into account, I consider that the period of 12 months sought by the appellants is both necessary and proportionate. Accordingly, the appeals on ground (g) succeed to that extent.

Conclusion

50. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice as corrected and varied, and refuse to grant planning permission.

Formal Decisions

Appeals A and B

51. It is directed that the enforcement notice be corrected by:

- deleting the words 'The unauthorised' at paragraph 3 of the notice and replacing them with "Without planning permission, the' and
- deleting the words 'for use as a studio' at paragraph 3 of the notice.

52. It is directed that the enforcement notice be varied by:

- deleting the word "unauthorised" and inserting the word "wooden" in front of the word "building" at paragraph 5 of the notice, and
- deleting the words '4 months' at paragraph 6 of the notice and replacing them with the words '12 months'.

53. Subject to those corrections and variation, the appeals are dismissed and the enforcement notice is upheld, and planning permission is refused on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C

54. The appeal is dismissed.

Paul Freer

INSPECTOR



Appeal Decision

Site visit made on 11 July 2017

by **Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI**

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

Decision date: 18 July 2017

Appeal Ref: APP/J1915/D/17/3174814

14 Chadwell, Ware SG12 9JY

- 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 Nicola Stuart O'Brien against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0225/HH, dated 20 September 2016, was refused by notice dated 23 March 2017.
 - The development proposed is described as 'Proposed minor amendment to previously approved scheme ref: 3/16/20150/HH for side and rear first floor extensions and loft conversion incorporating 3 no. rear dormer windows to include an additional 2 no. dormer windows to the front elevation.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission has been granted (application reference 3/16/2150/HH) for extensions and a loft conversion incorporating rear dormers at the appeal property. The Council's concerns are, therefore, limited to the two additional dormers now proposed in the front roof slope. I have framed the main issue accordingly.
3. The application form spells the appellant's surname 'Stuart O'Brian.' However, it is spelt Stuart-O'Brien in the appeal form and statement and I have used this spelling in the header above.

Main Issue

4. The main issue is the effect of the proposed front dormers on the character and appearance of the existing dwelling and surrounding area.

Reasons

5. The appeal property is a substantial detached dwelling which sits within a row of properties on the south side of Chadwell. Although the form and architectural style of the properties in this row varies, with the exception of No 35, none present three storey elevations to the road. No 35 has a flat roof front dormer at second floor level. However, both in terms of its appearance and position at second floor level, this dormer is at odds with the prevailing character of the area. The appellant has drawn my attention to a front dormer at No 17. Whilst the appearance of this dormer is more sympathetic to its host building than that at No 35, it is at first floor level above a garage. As such, it
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does not provide a robust justification for the proposed second floor level dormers.

6. I recognise that the proposed front dormers would be modest in size and would sit fairly comfortably within the roof slope. Nevertheless, they would be plain to see in views from a considerable length of Chadwell. I am not persuaded that the elevated position of the house, or the embankment and planting at the front of the appeal site, would restrict those views significantly.
7. Notwithstanding the isolated examples at Nos 17 and 35, front dormers are not characteristic of the area and the position of the proposed dormers at second floor level would jar with the consistent two storey front elevations of nearby dwellings. Therefore, the front dormers would have a harmful effect on the character and appearance of the existing dwelling and the surrounding area.
8. Consequently, the proposal would conflict with East Herts Local Plan Second Review 2007 (LP) Policy ENV1, which requires development to reflect local distinctiveness, and Policy ENV5 which presumes against extensions that are detrimental to the character and appearance of the dwelling and adjoining properties. Nor would the proposal accord with the design policies of the National Planning Policy Framework to the extent that they have similar aims. Although LP Policy ENV6 does not presume against roof extensions, it does require them to be appropriate to their surroundings. The appeal proposal would not meet that requirement.
9. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.

Conclusion

10. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR



Appeal Decision

Site visit made on 7 August 2017

by **Jonathan Manning BSc (Hons) MA MRTPI**

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

Decision date: 16 August 2017

Appeal Ref: APP/J1915/D/17/3178460

2 Anchor Lane Cottages, Anchor Lane, Wadesmill, SG12 0TG

- 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 Peter Jones against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0276/HH, dated 4 February 2017, was refused by notice dated 3 April 2017.
 - The development proposed is two storey front extension.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The appeal site is located within the Green Belt and therefore the main issues of the appeal are:
 - whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework;
 - the effect of the proposal on the openness of the Green Belt; and
 - if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate development?

3. The National Planning Policy Framework (the Framework) establishes that new buildings within the Green Belt are inappropriate unless, amongst other things, it involves the extension of a building. This is provided that it does not result in disproportionate additions over and above the original building.
4. Policy GBC1 'Appropriate Development in the Green Belt' of the East Herts Local Plan Second Review (2007) (the LP) sets out that permission will not be given for inappropriate development unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm. The policy also states that the construction of new buildings on land falling within the Green Belt will be inappropriate unless it is for a number of purposes, which includes limited extensions or alterations to existing

dwelling in accordance with Policy ENV5. Policy ENV5 of the LP identifies that outside the main settlements and Category 1 and 2 Villages, an extension to a dwelling 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. I consider that despite some inconsistencies, Policies GBC1 and ENV5 are broadly consistent with the Framework and therefore, in accordance with Paragraph 215 of the Framework, they can be afforded a reasonable level of weight.

5. The proposal would result in the construction of a two storey front extension, which would have a floor area of 7.92 square metres. The appellants have said that the main reason for appealing the Council's decision is that they believe that it has miscalculated the percentage by which the proposal, in combination with previous extensions, would extend the property. However, even by accepting the appellant's own calculations, the scheme, when considered with previous extensions, would result in an 82% increase in floor space from the original dwelling. Whilst the Framework and the relevant development plan policies do not give further guidance on what constitutes a disproportionate addition, I consider that such a large increase could not be said to be a proportionate addition.
6. In addition, the appellants have suggested that the 1950 extension should not be included within the calculation, as in 1950 the property was owned by the local authority, was semi-detached, and had no integral toilet or washing facilities. This would have been provided by an outhouse in the rear garden which was no longer present when the appellant moved into the dwelling in 2000. Annex 2 of the Framework sets out that the original building should be considered as that on 1 July 1948 or, if constructed after this date, as it was built originally. Given this and that I have no evidence before me to confirm that there was an original outhouse specific to the appeal property providing such facilities, I consider that the extension should be taken into account.
7. The proposed extension, when considered in combination with previous extensions, would therefore be inappropriate development, which is by definition harmful to the Green Belt and the scheme runs contrary to Paragraph 89 of the Framework and Policies GBC1 and ENV5 of the LP.

Openness

8. Openness is an essential characteristic of the Green Belt. The proposed extension would increase the bulk of the host dwelling and therefore would result in the loss of openness. However, in isolation, the loss of openness would be relatively minor. However, this minor level of harm is in addition to the harm resulting from the inappropriate nature of the scheme.
9. The appellants have referred to the Council closing the 'openness' between the twelve properties of Anchor Lane Cottages by linking them in 1950. However, this does not provide any justification for causing any additional harm to the openness of the Green Belt.

Other considerations

10. The appellant has set out that the scheme would provide for greater living space for their eldest child and would also provide them with the opportunity to

remain in the property into their retirement, as it is intended to incorporate downstairs washing facilities. Whilst these matters are acknowledged, I have not been provided with any evidence to suggest that the current living conditions are unacceptable. Further, I am not convinced that this scheme is the only feasible option to provide downstairs washing facilities. This is because the floor plans show that there is an existing downstairs WC and it appears feasible that the adjacent lobby area could potentially be converted into a downstairs washing facility in combination with the existing downstairs WC. Consequently, I afford these matters limited weight.

Other matters

11. The appellants have referred me to a planning application at 4 Anchor Lane Cottages, which I understand was approved by the Council in 2010. Whilst this may be of a similar design to the one proposed in this case, I have limited information before me in relation to that application. In particular, I do not have any details about the extent to which the scheme would have extended the original dwelling, along with any previous extensions at 4 Anchor Lane Cottages. Consequently, I afford the other development little weight and it does not affect my consideration of the specific merits of this case.
12. I acknowledge that no objections have been raised by the neighbours and the Council has not raised any concerns with regard to design and appearance of the proposed extension. However, these matters do not address or overcome my overall findings.

Conclusion

13. The proposed development would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, there would be a minor loss of openness.
14. On balance, I consider that the benefits of the scheme to the living conditions of the appellants and all other considerations do not clearly outweigh the totality of harm that has been identified. Consequently, very special circumstances do not exist. For the reason given above and having regard to all other matters raised, the appeal is dismissed.

Jonathan Manning

INSPECTOR



Appeal Decision

Site visit made on 7 August 2017

by **Jonathan Manning BSc (Hons) MA MRTPI**

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

Decision date: 16 August 2017

Appeal Ref: APP/J1915/D/17/3178451

14a Northgate End, Bishops Stortford, CM23 2EU

- 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 Jill Jones against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0297/HH, dated 7 February 2017, was refused by notice dated 18 April 2017.
 - The development proposed is demolition of existing garage and erection of new garage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issue of the appeal is whether the proposal would preserve or enhance the character or appearance of the Bishop Stortford Conservation Area.

Reasons

3. The appeal site is located on Northgate End and currently accommodates a detached dwelling and its generously sized curtilage. I observed that the rear curtilage of the host dwelling falls in level from west to east by over 2 metres. The appeal site falls within the Bishop Stortford Conservation Area (the Conservation Area). The surrounding area has a mix of uses, but the area closest to the appeal site is predominantly residential. This includes what appears to be a relatively new development at Yew Tree Place. It was clear from my site visit that there is a mix of dwelling types and architectural styles in this part of the Conservation Area. However, despite this variation, most buildings have a relatively traditional and simple appearance, with relatively shallow pitched or hipped roofs. In addition, where ancillary buildings are visible in the wider area, they generally appear subordinate to the host dwelling.
4. The appeal site includes an existing double garage that sits on the lower ground at the end of the rear garden. This would be demolished and replaced with a new building that would include a double and single garage with living accommodation above. This would include a bedroom with en-suite, living/dining and kitchen area and WC. A new access would also be gained from Yew Tree Place that would provide access to the proposed double garage. The building would have a twin relatively steep pitched roof design, which

- would have some rooflights where the two pitched roof sections would meet in the centre of the building.
5. The proposed building would be a significant structure measuring some 8.4 metres in height, 12 metres in width and 6.8 metres in depth. The height and width of the proposed building would not be dissimilar to the host dwelling. Due to its scale and height, I consider that the proposed building would have the appearance of a stand-alone dwelling, which despite the change in levels, would not, in my view, appear subordinate to the host dwelling.
 6. Despite the significant change in ground levels and the existing boundary vegetation, the scheme would be highly prominent in the street scene given its siting and scale, particularly from Yew Tree Place, where it would be viewed from a lower ground level, similar to that of the proposed building. I consider that the proposed building, including the roof of the larger building section, would also be visible from Northgate End, when viewed along the vehicular access into Yew Tree Place.
 7. The proposed twin steeply pitched roof form would appear incongruous in the street scene against the predominant shallow pitched or hipped roof forms in the immediate area. The steeply sloping pitched roof would result in large and bulky roof planes that would be overly prominent in the street scene. The contrived nature of the proposed roof form would be exacerbated by the overly complicated twin pitched design, with central rooflights, that would not respect the simple roof forms in this part of the Conservation Area.
 8. The staggered building design, which I appreciate has been adopted to try and reduce the bulk of the building would also be unsympathetic to the more traditional form and appearance of the existing dwellings in the surrounding area, including those directly opposite within Yew Tree Place. In addition, I have found that the proposed building due to its height and scale would have the appearance of a stand-alone dwelling in the street scene. The appellant accepts that the proposed building would have a strong relationship with the existing properties within Yew Tree Place. I observed that the existing dwellings within Yew Tree Place predominantly have their principle elevations facing onto the road. The northern elevation of the proposed building, which would face onto Yew Tree Place would consist of the side elevation, with limited openings. When viewed from Yew Tree Place, this would also appear at odds with the existing built form.
 9. I acknowledge that the existing garage building does not make any real contribution to the Conservation Area. However, in contrast to the proposed building, it currently has a somewhat unassuming appearance that does not draw attention to itself and sits comfortably in its context.
 10. For all of these reasons, I consider that the proposal would not preserve the character or appearance of the Bishop Stortford Conservation Area¹. I consider that the resulting harm from the scheme to the Conservation Area as a whole would be less than substantial. Consequently, the public benefits of the scheme need to be weighed against the harm. The proposal would result in improved living accommodation and improved parking arrangements for the appellant and her family, but in the absence of any more immediate public benefits, I consider that this is not sufficient to outweigh the identified harm.

¹ Section 72 (1) of the Planning (Listed Building and Conservations Areas) Act 1990.

11. In conclusion, the scheme by virtue of its design, siting, scale and bulk would not preserve the character or appearance of the Bishop Stortford Conservation Area. The scheme therefore conflicts with Saved Policies BH6 and ENV1 of the East Herts Local Plan Second Review (2007). In summary, these policies seek to ensure that: development in conservation areas are sympathetic in terms of (amongst others) scale, proportion, form and siting in relation to the general character and appearance of the area; and development is of a high standard of design and layout and reflects local distinctiveness. The proposal also runs contrary to Section 12 of the National Planning Policy Framework.

Other matters

12. I accept that there have been no objections from local residents. However, this does not overcome or outweigh the identified harm.

Conclusion

13. For the reasons set out above and having regard to all other matters raised, the scheme conflicts with the development plan, when considered as a whole and there are no material considerations that outweigh this conflict. The appeal is therefore dismissed.

Jonathan Manning

INSPECTOR

Appeal Decision

Site visit made on 11 July 2017

by **F Rafiq BSc (Hons), MCD, MRTPI**

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

Decision date: 28 July 2017

Appeal Ref: APP/J1915/D/17/3175479

25 Wychford Drive, Sawbridgeworth, Herts, CM20 0HA

- 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 Josh Haley against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0320/HH dated 8 February 2017 was refused by notice dated 6 April 2017.
 - The development proposed is the removal of up and over gabled porch roof, minor extension to front porch and replacement roof with a hipped front.
-

Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. The appeal property is a detached dwelling located on Wychford Drive, close to the end of one branch of the cul-de-sac. The area is predominantly residential with most of the buildings consisting of detached and semi-detached dwellings. Some of the properties have gable fronts and others with a pitched roof form with gables to the side, although the generally simple form and the close spacing between the properties contributes to the pleasant, close-knit character of the area.
4. Both the appellant and the Council make reference to previous appeal decisions¹ that were dismissed, albeit with variations to the Enforcement Notice. I have been provided with some details of the development that was subject of those appeals and was also able to see the gable fronted porch with its overhang at the time of my visit. The current proposal seeks an amended porch to what was considered previously, which would include a hipped roof form.
5. I appreciate that the revisions to the roof form, which include the removal of the overhang, would reduce the size and bulk of the porch. However, the

¹ APP/J1915/C/16/3155055 and APP/J1915/C/16/3167548

hipped roof form would not be in keeping with the predominant flat roof form of front projections in the area. I have been provided with examples of flat roof's that have been altered to form pitched roofs, some with hipped sides and other alterations. I am not however aware of the full circumstances of these referenced cases and in any case, at the time of my visit and from my site observations, I was able to see that the predominant roof form of front projections in the area comprise of flat roofs.

6. The Council's refusal related to the roof form and not to other elements of the development and I have no reason to disagree with this position. However, given the proposed roof form of the porch, which would be clearly seen in the streetscene given the forward positioning of the appeal property in relation to the neighbouring dwelling to the south, it would nevertheless have a harmful visual effect on the character of the area for reasons set out above.
7. I therefore conclude that the proposal would cause unacceptable harm to the character and appearance of the area. It would conflict with Policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review, which seek, amongst other matters, a high standard of design and development that reflects local distinctiveness. It would also conflict with Section 7 of the National Planning Policy Framework.
8. I note the planning history of the appeal property and more specifically the mono-pitch roof design of a previously approved porch. I can however confirm that, irrespective of earlier decisions, I have considered the appeal application on its own merits.

Conclusion

9. For the reasons given above and having considered all other matters raised, the appeal should be dismissed.

F Rafiq

INSPECTOR



Appeal Decision

Site visit made on 11 July 2017

by **F Rafiq BSc (Hons), MCD, MRTPI**

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

Decision date: 31 July 2017

Appeal Ref: **APP/J1915/D/17/3175542**

39 Fanshawe Street, Bengoe, Hertford, SG14 3AT

- 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 Matt Jarvis against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0352/HH dated 12 February 2017 was refused by notice dated 7 April 2017.
 - The development proposed is a first floor rear extension and alterations to roof including raising roof height to create second floor accommodation with three rear dormers and two front rooflights.
-

Decision

1. The appeal is allowed and planning permission is granted for a first floor rear extension and alterations to roof including raising roof height to create second floor accommodation with three rear dormers and two front rooflights at 39 Fanshawe Street, Bengoe, Hertford, SG14 3AT in accordance with the terms of the application Ref 3/17/0352/HH dated 12 February 2017 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: P.001 (Location Plan and Existing & Proposed Site Plan), P.003 Revision B (Existing & Proposed Plans), P.004 Revision B (Existing & Proposed Elevations), P.005 Revision B (Existing & Proposed 3D Views), P.006 Revision A (Photo Montage View from Bean Road) and P.007 Revision A (Photo Montage View from Fanshawe Street).
 - 3) 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.

Procedural Matter

2. I have utilised the description of development used by the Council in the decision notice, and by the appellant in subsequent submissions including the appeal form. This more accurately describes the proposal as it includes reference to a first-floor rear extension.
-

Main Issue

3. The main issue is the effect of the development on the character and appearance of the host dwelling, the area and whether it would preserve or enhance the character or appearance of the Conservation Area.

Reasons

4. The appeal property is a detached dwelling which is situated on the south-western side of Fanshawe Street, within the Hertford Conservation Area. The area contains a variety of housing with detached, semi-detached and terraced properties all evident along the street. These appear to date mainly from the late 19th and early 20th Century, although more modern buildings, such as the appeal property are also present. Despite the variance in built form and the height of buildings, the houses are set on generally consistent building lines, although those on the appeal property's side of the street, are set back further from Fanshawe Street than those on the opposite side. Many of the properties have good quality detailing around entrance doors, bay windows and incorporate other traditional features which contribute to the special character of the Conservation Area.
5. The proposal seeks permission for a rear extension and alterations to the roof which would see an increase in its height and would also include three rear dormers. The development would see the overall height of the appeal dwelling being similar to No.'s 33-37 Fanshawe Street. It would however result in a larger difference in height between the appeal property and the neighbouring dwelling to the north-west, No. 41 Fanshawe Street. I acknowledge that at present, the appeal property offers somewhat of a 'step down' between the taller dwellings at No's 33-37 and No. 41. However, given that difference in the style and form between these neighbouring properties, I do not consider that the increased height of the appeal dwelling, even when taking into account its width, would appear pronounced in the streetscene.
6. To the rear, the appeal proposal would result in a shorter roof slope within which would be sited three dormers. These would, as the Council state, appear higher than the existing dormers. I do not however consider that this siting would necessarily be harmful given the size of the two small dormers and that they would be set in from the edges of the roof. I recognise that the central dormer would be of a larger scale but it would still be largely contained within the existing roofslope, with all three dormers adopting a pitched roof form. The rear of the dwelling is prominent in wider views but given the large area of glazing proposed to the rear, including on the dormers, I do not agree with the Council that these elements of the proposal would have a top-heavy appearance. Rather, they would sit comfortably alongside No. 37, which has a contemporary appearance in the rear streetscene.
7. For the reasons given above, I conclude that the development would not have an adverse impact on the character and appearance of the host property or the area. It would also preserve the character and appearance of the Conservation Area. I therefore find that there would be no conflict with Policies ENV1, ENV5, ENV6, BH5 or BH6 of the East Herts Local Plan Second Review, which seek, amongst other matters, a high standard of design and proposals to be

sympathetic to the character and appearance of the area. There would also be no conflict with Sections 7 and 12 of the National Planning Policy Framework.

Conclusion

8. For the reasons given above and having taken into account all other matters raised, including reference to a previous application at the site, I conclude the appeal should be allowed.

Conditions

9. The Council have suggested a number of conditions. I consider the standard implementation condition and a condition for the development to be carried out in accordance with the approved plans to be necessary for the avoidance of doubt and in the interests of proper planning. I will impose a condition in relation to materials to match the existing in the interests of the character and appearance of the building and the Conservation Area.

F Rafiq

INSPECTOR

Appeal Decision

Site visit made on 7 August 2017

by **Jonathan Manning BSc (Hons) MA MRTPI**

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

Decision date: 15 August 2017

Appeal Ref: APP/J1915/D/17/3176394

4 Kingsbridge Road, Bishops Stortford, CM23 2AD

- 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 Caroline David against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0406/HH, dated 17 February 2017, was refused by notice dated 11 April 2017.
 - The development proposed is two storey side and front extensions. Part single storey / part two storey rear extension. New first floor side window opening. Detached double garage.
-

Decision

1. The appeal is allowed, insofar, that planning permission is granted for two storey side and front extensions. Part single storey / part two storey rear extension. New first floor side window opening, at 4 Kingsbridge Road, Bishops Stortford, CM23 2AD, in accordance with the terms of application ref: 3/17/0406/HH, dated 17 February 2017, subject to the planning conditions in the attached schedule.

Main Issue

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

Reasons

3. The appeal site is located on Kingsbridge Road and currently accommodates a 4 bedroom two storey detached dwelling. The wider area is residential and I observed that there is vast array of dwelling types and architectural styles in the surrounding area. This includes bungalows and two storey properties. I observed that there is also a wide variation in roof forms in the immediate surroundings, including pitched, hipped and even a mansard roof opposite the appeal site.
4. The proposal would result in the extension of the host dwelling, which would include two storey side and front extensions, along with a part single storey and part two storey rear extension. There would also be alterations to the fenestration.
5. The proposed two storey gabled front extension would include a Juliette balcony and an overhang feature at ground floor. Whilst these are not common features in the surrounding area, the appellant has provided several

examples of Juliette balconies within the wider area and numerous examples of similar gable ended front projections. Given the very large variation of architectural styles in the immediate vicinity, I consider that such features would not appear alien or out of keeping with the area. In addition, the front extension would not significantly project forward from the front elevation of the host dwelling and would not be of a width or scale that would be overly dominant or detrimental to the character and appearance of the host dwelling or the street scene.

6. The two storey side extension would add additional bulk to the host dwelling. However, it would not extend past the width of the existing conservatory. Further, at roof level the existing ridgeline would be continued and the mass and bulk of the roof has been minimised by the sloping hipped design. I am not of the view that when viewed from the street scene that the additional bulk at roof level appears overly prominent and it would be in keeping with the host dwelling. In addition, the appeal property is set well back from the road and the proposal would result in a dwelling that would not be dissimilar in scale to No 2 Kingsbridge Road, when viewed from the road.
7. The proposed part single and part two storey rear extension would extend beyond the existing dwelling by some 6 metres. It would be a large addition, but the rear extension would not project to any great degree beyond the rear footprint of the neighbouring property and the appeal property also benefits from a large rear garden. The resulting land to building ratio would be in keeping with the surrounding properties and would not constitute over-development. For all of the above reasons, I consider that the scale and bulk of the proposed side and rear extensions would not be out of keeping with the host dwelling and would not be intrusive in the street scene.
8. The Council has also raised particular concerns about the roof design insofar that there would be a section of flat roof. However, in this case, the flat roof section is relatively small and would form part of a wider hipped roof design. I consider that it does not constitute the sort of flat roof extension that Policy ENV6 of the East Herts Local Plan Second Review (2007) (the LP) is seeking to avoid. Further, the flat roofed part of the roof design would not be visible from the road, as shown in the drawing provided in the appellant's appeal evidence.
9. In any event, Policy ENV6 of the LP sets out under (d) that '*flat roofed extensions, except those on the ground floor, will be refused as visually undesirable other than in those exceptional circumstances where the character of the original dwelling allows a flat-roofed design to be appropriately incorporated*'. In this case, I have identified a wide variation in roof forms in the immediate area, including pitched, hipped and a mansard roof. Further to this, the appellant has provided a diagram that shows that there are numerous examples in the area of similarly designed roofs that have small central sections of flat roof as part of their wider designs and this includes the neighbouring property No 2. I consider that the nature of the host dwelling and wide range of roof forms in the immediate area allows a flat-roofed design to be appropriately incorporated and it would not appear incongruous, in accordance with Policy ENV6 of the LP.
10. I consider that the proposed materials, including the slate roof tiles would be acceptable, particularly bearing in mind the wide variation in architectural styles and materials in the immediate area.

11. The proposal includes a large double garage that would be located behind the existing boundary hedge close to the road. This would be a large structure with a relatively steep pitched roof. The structure would be visible from the road through the vehicular access and would be taller than the existing hedge. Given the existing pattern of development in the area, where garages close to the road are rare, I consider that the proposed garage by virtue of its scale and siting would be an overly prominent and incongruous feature in the street scene, which would cause harm to the character and appearance of the area.
12. On a related matter, Drawing 5011.P.010 Rev A (Site Plan) shows a sliding gate at the front of the site. However, I have no other detail on the design or materials of the gate. I consider that a solid gate that would not allow views of the appeal property from the road would be an incongruous feature and would be harmful to the character and appearance of the area. Notwithstanding this, I consider that a planning condition could be imposed to overcome this matter, which would require the design and materials of the gate to be agreed with the Council.
13. In conclusion, I consider that the proposed front, side and rear extensions would be in keeping with the character and appearance of the host dwelling and the area and would not result in any harm. This part of the development therefore complies with Policies ENV1, ENV5 and ENV6 of the LP. In summary, these policies seek to ensure that: extensions to existing buildings are of a high standard of design and layout and reflect local distinctiveness; relate well to the massing (volume and shape) and height of adjacent buildings; the character of the existing dwelling would not be significantly affected to their detriment; and proposed extensions are of a design and choice of materials of construction, that match or complement the original building and its setting.
14. I have, however, found that the proposed double garage would cause harm to the character and appearance of the area, contrary to policies ENV1, ENV5 and ENV6 of the LP. However, the appellant has set out that a split decision would be acceptable to them to remove the double garage from the scheme should it be considered unacceptable. I have therefore issued a split decision.

Other matters

15. The occupants of the neighbouring property No 2 have raised a number of concerns in relation to the proposal. The proposed extension would affect the occupant's outlook from the side facing windows of No 2. I understand that these windows serve a downstairs cloak room, landing and a kitchen window. However, the window serving the kitchen is secondary and benefits from another opening and outlook. Further, the photo taken from the kitchen window provided by the occupants, shows that the outlook is to some degree already obscured by the existing boundary vegetation and fence. Given all of this, whilst there would be a noticeable change to the outlook from the kitchen window and the other side facing openings, I am not of the view that this would cause any material harm to the occupant's overall living conditions that would be sufficient to warrant the refusal of the appeal.
16. The proposed extension would be located 3 metres away from the side elevation of No 2 and the appeal property is orientated to the north. On this basis, I am not of the view that there would be any meaningful loss of light to the side facing windows of No 2. As a result, I see no need to require a

rendered finish on the southern elevation of the scheme, as requested by the occupants of No 2.

17. The proposed extension would not extend past the rear footprint of No 2 to any significant degree. Further, whilst there would be built development at first floor level closer to the boundary with No 2, this would still be set back by 3 metres from the side elevation of No 2. Consequently, I am not of the view that the proposed extension would appear overly dominant or obtrusive when viewed from the patio and garden area of No 2. In terms of privacy, all side facing windows on the proposed extension would be obscure glazed. Further, whilst there would be first floor windows on the rear elevation of the proposed extension in closer proximity to the boundary with No 2, this would not result in any material increase in mutual overlooking from that which already exists. I see no reason why the existing hedge along this boundary would not be retained and the application form states that no hedges or trees will need to be removed.
18. Overall, I consider that the proposal would not harm the living conditions of the occupants of No 2 to a degree that would warrant the refusal of the appeal. I am also mindful that the Council share this view.

Planning Conditions

19. I have considered the Council's suggested conditions against the tests set out within the National Planning Policy Framework and the advice provided by the Government's Planning Practice Guidance and have amended them where required, without altering the purpose or intent of the condition. As well as the standard time limit condition (1), a condition is necessary to ensure the development is undertaken in accordance with the approved plans to secure certainty (2). To ensure the suitable appearance of the scheme, conditions (3 and 4) are necessary. Condition (5) is imposed to protect the living conditions of the occupants of neighbouring properties.

Conclusion

20. For the reasons set out above and having regard to all other matters raised, including the concerns of the Town Council and local residents, I consider the scheme complies with the development plan when taken as a whole. The appeal is therefore allowed.

Jonathan Manning

INSPECTOR

Schedule of Planning Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development shall be carried out in accordance with the following approved plans:
 - 5011.P.002 Rev A (Proposed Floor Plans)
 - 5011.P.003 Rev A (West Elevation)
 - 5011.P.004 Rev A (North Elevation)
 - 5011.P.005 Rev A (East Elevation)
 - 5011.P.006 Rev A (South Elevation)
 - 5011.P.010 Rev A (Site Plan) - Excluding proposed double garage.
 - 5011.P.011 (Location Plan)
- 3) 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.
- 4) The sliding gate shown on Drawing 5011.P.010 Rev A (Site Plan) shall not be constructed until the design and materials of the gate have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.
- 5) The development hereby permitted shall not be occupied until the window openings on the north and south elevations have been fitted with obscured glazing as shown on Drawings 5011.P.004 Rev A (North Elevation) and 5011.P.006 Rev A (South Elevation). The windows shall be retained in such condition thereafter.