



Appeal Decision

Site visit made on 24 July 2018

by Sarah Dyer BA BTP MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 2 October 2018

Appeal Ref: APP/J1915/W/17/3191734
52 Mazoe Road, Bishops Stortford CM23 3JT

- 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 Mazoe Road Limited against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1804/FUL, dated 6 July 2017, was refused by notice dated 25 September 2017.
 - The development proposed is reconstruction of existing chalet bungalow to create a 3-bed+study bungalow with a room-in-the-roof and dormer. New build 3-bed bungalow with a room-in-the-roof and dormer. All associated parking, private amenity space and bin stores.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellants name was given as Maze Road Limited on the planning application form. I have assumed this to be an error and have used the name referred to on the appeal form in the banner above.
3. On 11 September 2018 the Secretary of State issued a Holding Direction to East Hertfordshire District Council, directing the Council to pause work on their Local Plan whilst the Secretary of State considers whether to call in the Local Plan. The direction prevents the Council from taking any step in connection with the adoption of the Plan. Section 21A of the 2004 Act states that a document to which a direction relates has no effect while the direction is in force. Therefore no weight can be attributed to the emerging Local Plan whilst the holding direction remains in force. I have determined the appeal on this basis.
4. I have limited information regarding the status of the Bishops Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley, which is referred to in the Council's report. Consequently, this document has attracted only limited weight in my determination of this appeal.
5. During the course of the consideration of this appeal the revised National Planning Policy Framework (the revised Framework) has been published. I have invited both parties to submit comments on the relevance of the revised Framework to this case.

Main Issues

6. The main issues are the effect of the development on:
- The character and appearance of the appeal site and the surrounding area, with particular reference to the size of the plot for the new dwelling.
 - The free and safe movement of vehicles and pedestrians in the vicinity of the appeal site with particular regard to the provision of on-site parking for the existing dwelling.
 - The living conditions of the occupiers of 52 and 54 Mazoe Road with particular regard to overlooking and overbearing impacts.
 - The living conditions of the occupiers of 50 Mazoe Road with particular regard to overlooking of private amenity space.

Reasons

Character and appearance

7. The appeal site is a corner plot in an established residential area which is characterised by a wide range of dwelling types and styles including two storey houses, bungalows and chalet bungalows. The existing chalet bungalow on the appeal site (no. 52) fronts Mazoe Road and its rear garden is parallel to Mazoe Close which is on a steep incline. The consequence of this arrangement is that the ground level at the far end of the garden is significantly higher than that of the existing bungalow. The appeal site is, therefore, prominent in the street scene of Mazoe Close and at the junction of Mazoe Road and Mazoe Close.
8. Whilst there is some variation in plot size in the area, the combination of the comparatively small size of the plot for the new bungalow and its elevated position above no. 52 would result in the new building appearing as an excessively dominant and obtrusive feature in the street scene. This effect would be compounded by the significant reduction in the depth of the rear garden serving no. 52 and the consequently limited separation distance between the two buildings which would also result in the new bungalow appearing unduly cramped on the site.
9. I conclude that the development would harm the character and appearance of the appeal site and the surrounding area, with particular reference to the size of the plot for the new dwelling. The development is therefore contrary to policies HSG7 and ENV1 of the of the East Herts Local Plan Second Review (2007) (the Local Plan) which together, amongst other things, expect new development to complement the existing pattern of street blocks, plots and buildings and for it to be well sited in relation to the remaining surrounding buildings and not appear obtrusive or over intensive.
10. The Council has referred to the National Planning Policy Framework 2012 in its reason for refusal. Chapter 12 of the revised Framework has replaced policy on the creation of high quality buildings and places. However I do not find, given the particular circumstances of this case, that the revised policy position leads me to any other conclusion than that which I have reached in terms of the harm arising from the proposed development.

Provision of on-site parking

11. At the time of my site visit there was a significant amount of on-street parking in the vicinity of the appeal site particularly on Mazoe Road. This has the effect of narrowing the road to the extent that drivers had to pause in the carriageway to allow on-coming vehicles to pass parked cars and generating a need to cross the road between parked cars.
12. No. 52 is unoccupied and access to the garage close to the boundary is overgrown and unusable in its current state. The submitted plans show two car parking spaces on what would have been the access drive to the garage. The appellant notes this driveway would be made wider by the relocation of the flank wall of no. 52. However this is not particularly evident on the submitted plans and it is not clear whether the marked up plans provided by the appellant reflect what is shown on the submitted plans or are an illustration of what could be provided under a revised arrangement. I am therefore unable to conclude with any certainty that sufficient space would be provided for usable off-street parking space to serve no. 52.
13. The limitations of the proposed parking arrangements to serve no. 52 would be likely to result in residents and visitors seeking to park on the street. During my site visit I observed that that part of Mazoe Road closest to the appeal site is less heavily used for roadside parking than further along the road. Therefore the additional demand for on-street parking arising from the appeal scheme would be likely to extend and exacerbate the existing problem of vehicles stopping on the highway and pedestrians having to cross the road between parked cars which would be inherently unsafe particularly for children.
14. The Council has referred to the dimensions for car parking spaces required by its supplementary planning document Vehicle Parking Provision at New Development 2008 (the Vehicle Parking SPD). It concludes that the width of the proposed parking spaces to serve no. 52 would not meet those standards. The appellant disputes the calculations made by the Council. Notwithstanding whether or not the proposals adhere strictly to the dimensions specified in the Vehicle Parking SPD, the development would be likely to result in increased on-street parking and its consequent harmful effects that I have identified above.
15. I conclude that the development would have a harmful effect on the free and safe movement of vehicles and pedestrians in the vicinity of the appeal site with particular regard to the provision of on-site parking for the existing dwelling. The development is therefore contrary to policy TR7 of the Local Plan which, amongst other things, requires that car parking provision is determined on a site specific basis having regard to its location. For similar reasons the development is not in accordance with the Vehicle Parking SPD.

Living conditions

16. Views from the rear windows in the neighbouring house (no. 54) appear to be constrained by the garage on the appeal site and the garage serving no. 54. Given the limited scale of the existing garage on the appeal site and the boundary fence, the outlook from the garden of no. 54 is also relatively unaffected by the existing development on the appeal site.
17. The removal of the garage on the appeal site would open up the views from the rear windows in no. 54 and as a result of the elevated position of the new

bungalow and its scale it would be visible through these windows. However, given the separation distance between the rear elevation of no. 54 and the front of the new dwelling, any overbearing impact would not be harmful. However the new bungalow would be much taller than the boundary fence and would have the effect of looming over the rear garden of no. 54 in an overbearing way which would have an adverse effect on the neighbour's enjoyment of their garden. Overall the development would have a harmful impact on the living conditions of the occupiers of no. 54 in terms of having an overbearing impact on their rear garden.

18. The alterations to no. 52 include the installation of patio doors in the rear elevation which, given the limited size of the retained garden serving no. 52, would be in close proximity to the boundary. As a result of its elevated position, the new bungalow would be visible from these doors. The boundary treatment to subdivide the plot would screen the bungalow from the patio doors and the rear garden of no. 52 to a limited degree. However, given the height, scale and massing of the new bungalow and the close relationship between the two buildings, the new bungalow would have a harmful overbearing impact on both the views from the patio doors in no. 52 and its rear garden. This adverse impact would be aggravated by the likelihood that the rear garden serving no. 52 would be intensively used given the limited amount of amenity space provided for that dwelling as part of the appeal proposals.
19. In view of the change in level between the boundary subdividing no. 52 from the new bungalow and the front elevation of the new bungalow, there would be potential for overlooking from both ground floor windows and first floor windows in the new bungalow towards no. 52 and no. 54. The harm resulting from overlooking from the first floor window serving the stairwell could be reduced to a satisfactory level by the use of obscured glazing. However I am not persuaded on the basis of the evidence before me that a satisfactory solution could be found in relation to the ground floor window which would serve bed 3. I have therefore concluded that the development would result in a harmful level of overlooking of no. 52 and no. 54.
20. During my site visit I took the opportunity to look out of the existing dormer window in the side elevation of no. 52 which faces Mazoe Close. This window provides a view into the rear garden of 50 Mazoe Road (no. 50) on the other side of Mazoe Close. The window which would serve bed 4/study in no. 52 as altered would be in approximately the same location as the existing dormer window and the overlooking of no. 50 would be to a similar degree. However the window which would serve bed 2 would result in additional overlooking to a degree that would be harmful to the occupiers of no. 50.
21. The appellant has suggested that a revision of the window serving bed 2 could be secured by planning condition and refers me to an appeal decision where such a condition was used. Given that I am dismissing the appeal for other reasons, I have given limited weight to this suggestion. However I note that the development in the case referenced by the appellant is not directly comparable to the current case.
22. I have had regard to the examples of close relationships between neighbouring houses put forward by the appellant but they do not appear to be directly

comparable and, notwithstanding any similarity, do not outweigh the harm I have otherwise identified in this instance.

23. I conclude that the development would have a harmful effect on the living conditions of the occupiers of 52 and 54 Mazoe Road with particular regard to overlooking and overbearing impacts and of 50 Mazoe Road with particular regard to overlooking of private amenity space. The development is therefore contrary to policies HSG7 and ENV1 of the Local Plan which together, amongst other things, expect new development to be well sited in relation to the remaining surrounding buildings and to respect the amenity of occupiers of neighbouring buildings and those of future occupants.
24. Policies ENV5 and ENV6 of the Local Plan, which relate to extensions to dwellings are not directly relevant to the appeal proposals which are for reconstruction of existing chalet bungalow and a new build 3-bed bungalow.
25. The Council has referred to the National Planning Policy Framework 2012 in its reason for refusal. Paragraph 127 (f) of the revised Framework highlights the need to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. I do not find, given the particular circumstances of this case, that the revised policy position leads me to any other conclusion than that which I have reached in terms of the harm arising from the proposed development.

Other matters

26. I acknowledge the concerns raised by local residents, in addition to those relating to matters of design, car parking and the living conditions of the occupiers of 50, 52 and 54 Mazoe Road, including impact on the living conditions of occupiers of Mazoe Close, the width of Mazoe Close, damage to trees and bin storage. Given that I find the proposals to be unacceptable for other reasons, and any such concerns would have no bearing on my overall planning balance, it is not necessary for me to address these matters any further as part of this decision.
27. The appellant also refers to the presumption in favour of sustainable development and related paragraphs in the National Planning Policy Framework 2012 which he contends support the proposed development. The revised Framework supersedes these references but makes no material change to government policy in relation to them. As the revised Framework states planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case I have determined that the development is not in accordance with the development plan and that material considerations do not lead me to conclusions other than those I have reached in relation to the main issues.

Conclusion

28. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

Sarah Dyer

Inspector



Appeal Decision

Site visit made on 24 July 2018

by Sarah Dyer BA BTP MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 2 October 2018

Appeal Ref: APP/J1915/W/18/3193841

1 Mathams Drive, Bishops Stortford CM23 4EN

- 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 Lee Mahoney against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/2252/FUL, dated 26 September 2017, was refused by notice dated 22 November 2017.
 - The development proposed is new one bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council has made reference to an approved scheme for a two storey side extension to 1 Mathams Drive. I have limited information about the details of this scheme or about the likelihood of it being pursued should the appeal scheme fail. However, on the basis of the description provided by the Council, I have given this information moderate weight.
3. On 11 September 2018 the Secretary of State issued a Holding Direction to East Hertfordshire District Council, directing the Council to pause work on their Local Plan whilst the Secretary of State considers whether to call in the Local Plan. The direction prevents the Council from taking any step in connection with the adoption of the Plan. Section 21A of the 2004 Act states that a document to which a direction relates has no effect while the direction is in force. Therefore no weight can be attributed to the emerging Local Plan whilst the holding direction remains in force. I have determined the appeal on this basis.
4. I have limited information regarding the status of the Bishops Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley, which is referred to in the Council's report. Consequently, this document has attracted only limited weight in my determination of this appeal.
5. During the course of the consideration of this appeal the revised National Planning Policy Framework (the revised Framework) has been published. I have invited both parties to submit comments on the relevance of the revised Framework to this case.

Main Issue

6. The main issue is the effect of the development on the character and appearance of the area with particular reference to trees and landscaping.

Reasons

7. The appeal site is adjacent to Villiers-Sur-Marne Avenue which is an attractive tree-lined road serving an established residential area. 1 Mathams Drive is a narrow end of terrace house on a corner plot which is partially obscured from the street by mature trees and shrubs. The planting on and in the vicinity of the appeal site makes an important contribution to the area which is characterised by buildings set within a lush landscaped setting.
8. Given the amount of overhanging branches, the addition of another dwelling to the existing terrace would require at least some cutting back and/or removal of vegetation to accommodate the new structure. This would also be the consequence of constructing a two storey extension. However the appeal scheme also includes subdivision of the plot to provide private amenity space for the new dwelling. This newly formed amenity space would be beneath overhanging vegetation which includes sizable branches of trees on Villiers-Sur-Marne Avenue. In order to provide light to what would be a compact garden, it would be necessary to remove some of the overhanging branches and in the absence of information to demonstrate otherwise this would have a harmful effect on the long term health of these mature trees. The substantial cutting back and/or loss of trees and other vegetation would have a significantly harmful effect on the character and appearance of Villiers-Sur-Marne Avenue.
9. The appellant refers to the absence of a request from the Council for a Tree Report and recognises that a 'fair amount of trimming back' will be needed but contends that trees will not need to be removed. In the absence of information to clearly demonstrate the impact of the development on trees and vegetation which have a crucial role to play in the character and appearance of the area, I am unable to conclude that the appeal proposals would not have a harmful impact.
10. I conclude that the development would have a harmful effect on the character and appearance of the area with particular reference to trees and landscaping. The development is therefore contrary to Policies ENV1, ENV2 and HSG 7 of the East Herts Local Plan Second Review (2007) which together, amongst other things, expects new development to minimise loss or damage of any important landscape features and to retain and enhance existing landscape features.
11. The Council makes reference to the National Planning Policy Framework 2012 in its submissions. The revised Framework replaces policy on the creation of high quality buildings and places. However I do not find, given the particular circumstances of this case, that the revised policy position leads me to any other conclusion than that which I have reached in terms of the harm arising from the proposed development.

Other Matters

12. I acknowledge the concerns raised by Bishops Stortford Town Council in addition to those relating to the impact of the development on the street scene, which included overdevelopment of the site. Given that I find the proposal to be unacceptable for other reasons, and any such concerns would have no bearing on my overall planning balance, it is not necessary for me to address these matters any further as part of this decision.

Conclusion

13. For the reasons given above, and having regard to all other matters raised, including representations from interested parties, the appeal is dismissed.

Sarah Dyer

Inspector



Appeal Decision

Site visit made on 24 July 2018

by Sarah Dyer BA BTP MRTPI MCI

an Inspector appointed by the Secretary of State

Decision date: 5th October 2018

Appeal Ref: APP/J1915/W/18/3193764

1 Pryors Close, Bishops Stortford, CM23 5JX

- 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 David Mason (Langley Builders) against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/2410/FUL, dated 13 October 2017, was refused by notice dated 23 November 2017.
 - The development proposed is construction of new 3-bedroom bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for construction of new 3-bedroom bungalow at 1 Pryors Close, Bishops Stortford in accordance with the terms of the application, Ref 3/17/2410/FUL, dated 13 October 2017, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Planning permission has been granted for the erection of a 3-bed dwelling on the appeal site and I have been provided with a copy of an approved plan. Whilst I have limited evidence regarding the likelihood of the approved development proceeding in the event that this appeal fails, there are strong similarities between the approved scheme and the appeal scheme. Therefore, I have given the approved scheme moderate weight in my determination of this appeal.
3. Both parties have agreed that there is an error on the decision notice and that the submitted site plan as proposed is drawing number 689/50.
4. On 11 September 2018 the Secretary of State issued a Holding Direction to East Hertfordshire District Council, directing the Council to pause work on their Local Plan whilst the Secretary of State considers whether to call in the Local Plan. The direction prevents the Council from taking any step in connection with the adoption of the Plan. Section 21A of the 2004 Act states that a document to which a direction relates has no effect while the direction is in force. Therefore no weight can be attributed to the emerging Local Plan whilst the holding direction remains in force. I have determined the appeal on this basis.
5. I have limited information regarding the status of the Bishops Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley,

which is referred to in the Council's report. Consequently, this document has attracted only limited weight in my determination of this appeal.

6. During the course of the consideration of this appeal the revised National Planning Policy Framework (the revised Framework) has been published. I have invited both parties to submit comments on the relevance of the revised Framework to this case.

Main Issue

7. The main issues are:

- The effect of the development on the character and appearance of the area with particular regard to the gap between buildings on Pryors Close and The Crescent.
- The effect of the development on the living conditions of the occupiers of 1 Pryors Close with particular regard to the potential for visual intrusion and an overbearing impact.

Reasons

Character and appearance

8. Pryors Close is a small group of houses clustered around a cul-de-sac accessed via a busy road, Hallingbury Road. The new bungalow would be sited between no. 1 Pryors Close (no. 1) and Hallingbury Road and it would be read in the context of other development on Hallingbury Road as opposed to having a strong impact on the character of the cul-de-sac.
9. This part of Hallingbury Road is characterised by the generous verge either side of the entrance into Pryors Close which accommodates mature trees including two large specimens which screen the appeal site from the road. There are also a number of mature trees in the gardens of houses which are visible in between buildings and which make a positive contribution to the character and appearance of Hallingbury Road
10. The new bungalow would occupy the foreground of the view of the gap between the rear elevations of the houses fronting Pryors Close and the side boundary of 17 The Crescent (no. 17). There is a significant change in level between the appeal site and no. 17 afforded by an embankment. This change in level and the screening effect of the roadside trees significantly reduces the contribution which the gap between buildings on Pryors Close and those on The Crescent makes to the street scene. The single storey scale of the bungalow would ensure that the size, bulk and massing of the building would continue to allow glimpsed views of trees in neighbouring gardens over the new building.
11. The Council argue that the repositioning of the approved bungalow further back into the plot would materially erode the feeling of spaciousness exhibited in the street scene. On the basis of my observations of the character and appearance of the area as described above and considering the evidence before me, I have concluded that a bungalow in the revised location would not have a harmful effect on the street scene.
12. I conclude that the development would not harm the character and appearance of the area with particular regard to the gap between buildings on Pryors Close and The Crescent. The application therefore complies with Policies HSG7 and

ENV1 of the East Herts Local Plan Second Review (2007) (the Local Plan) which together, amongst other things, permit infill housing development where it complements the character of the local built environment and has regard to local distinctiveness and expect new development to complement the existing pattern of street blocks, plots and buildings.

13. The Council has referred to the National Planning Policy Framework 2012 in its reason for refusal. Chapter 12 of the revised Framework has replaced policy on the creation of high quality buildings and places. However I do not find, given the particular circumstances of this case, that the revised policy position leads me to any other conclusion than that which I have reached in terms of the harm arising from the proposed development.

Living conditions

14. The siting of the new bungalow is such that the full extent of its side elevation would lie beyond the main rear wall of 1 Pryors Close (no. 1). The new bungalow would be separated from no. 1 by a fence and it would be sited away from the side boundary to accommodate a cycle store and side access.
15. Views of the bungalow would be afforded from windows in the rear of no. 1 and from within the garden of that property above the boundary fence. However as a result of the distance between the boundary and the new bungalow, its single storey scale and the slope of its roof which rises away from the boundary with no. 1, the development would not appear overbearing or visually intrusive in those views.
16. The Council is concerned that the repositioning of the bungalow and the additional depth of the side element would have a harmful effect on the occupiers of no. 1. During my site visit I considered the relative positions of the new bungalow and no. 1 as described above. On this basis and from the evidence before me which shows that the proposed bungalow would be sited further from the boundary than the approved scheme, I am satisfied that the appeal scheme would not have a harmful visually intrusive or overbearing impact on the occupiers of no. 1.
17. I conclude that the development would not have a harmful effect on the living conditions of the occupiers of 1 Pryors Close with particular regard to the potential for visual intrusion and an overbearing impact. The application therefore complies with Policies HSG7 and ENV1 of the of the Local Plan which together, amongst other things, permit infill housing development where it is well-sited in relation to the remaining surrounding buildings and will not appear obtrusive and expects new development to respect the amenity of occupiers of neighbouring buildings.
18. The Council has referred to the National Planning Policy Framework 2012 in its reason for refusal. Paragraph 127 (f) of the revised Framework highlights the need to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. I do not find, given the particular circumstances of this case, that the revised policy position leads me to any other conclusion than that which I have reached in terms of the harm arising from the proposed development.

Conditions

19. I have included the condition to secure compliance with the approved plans to provide certainty.
20. I have included the suggested conditions regarding the submission and approval of samples of external materials and the details of boundary treatment and timing of its provision. Both of these conditions are required to ensure that the development preserves the character and appearance of the wider area.
21. The Council has requested two conditions to remove permitted development rights for enlargement, improvement or other alteration of a dwelling house and buildings etc. incidental to a dwelling house. Paragraph 53 of the revised Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification for doing so. In this case I have not found a clear justification for the removal of permitted development rights and find both conditions to be unreasonable.
22. I have included the condition relating to construction working hours as this is justified by the close proximity of a number of dwellings and their occupiers who would be adversely affected by noise and disturbance generated by building works outside the hours specified.
23. I have also included the suggested condition requiring wheel washing facilities as this is justified in the interests of highway safety given the proximity to the junction with a busy road. This condition needs to be a 'pre-commencement' condition to ensure that the facilities are in place when construction vehicles begin to enter and leave the site. The appellant has provided written agreement to the wording of this condition.

Conclusion

24. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Sarah Dyer

Inspector

Schedule of Conditions

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the approved plan drawing nos. 689/32/b and 689/50.
- 3) Prior to any building works being commenced samples of the external materials of construction for the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented in accordance with the approved materials.
- 4) Prior to the first occupation of any dwellings hereby approved, details of all boundary walls, fences or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be erected and retained in accordance with the approved details.

- 5) In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.
- 6) Prior to the commencement of demolition or construction, wheel washing facilities shall be established within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority and shall be kept in operation at all times during demolition and construction works.

Appeal Decisions

Site visit made on 24 July 2018

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

an Inspector appointed by the Secretary of State

Decision date: 2 October 2018

Appeal A Ref: APP/J1915/W/18/3195491

Great Hadham Golf and Country Club, Great Hadham Road, Much Hadham SG10 6JE

- 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 Arcadia Estates Limited (Mr Morgan) against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/2502/FUL, dated 23 October 2017, was refused by notice dated 1 February 2018.
 - The development proposed is described as 'Change of use from leisure land just as a golf course, to leisure land as a golf course with leisure lodges - this change and diversification of use is absolutely essential following the bankruptcy and administration of the business on 27 October 2016 because as a golf course alone it is not financially viable.'
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Appeal B Ref: APP/J1915/W/18/3203036

Great Hadham Golf and Country Club, Great Hadham Road, Much Hadham SG10 6JE

- 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 planning permission.
 - The appeal is made by Great Hadham County Club Limited (Mr Morgan) against East Hertfordshire District Council.
 - The application Ref 3/18/0329/FUL, is dated 13 February 2018.
 - The development proposed is described as 'Change of use from leisure land just as a golf course, to leisure land as a golf course with leisure lodges - this change and diversification of use is absolutely essential following the bankruptcy and administration of the business on 27 October 2016 because as a golf course alone it is not financially viable.'
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Decision

1. Appeal A is dismissed and Appeal B is dismissed and planning permission is refused for 'Change of use from leisure land just as a golf course, to leisure land as a golf course with leisure lodges - this change and diversification of use is absolutely essential following the bankruptcy and administration of the business on 27 October 2016 because as a golf course alone it is not financially viable.'

Applications for Costs

2. Applications for costs were made by Arcadia Estates Limited (Mr Morgan) and Great Hadham County Club Limited (Mr Morgan) against East Hertfordshire District Council. These applications are the subject of separate Decisions.
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Preliminary Matters

3. The proposals for Appeals A and B are essentially the same. The application the subject of Appeal A was refused for five reasons. Reason four states that the application lacks sufficient information on surface water drainage. The appellant subsequently submitted a Flood Risk Report and the Council has confirmed that this Report would overcome its concerns on this matter. I have no reason to doubt the findings of the Report. The Council's statement for Appeal B confirms that it considers the determining issues in respect of that appeal are the same as the remaining issues for Appeal A.
4. The appellant objects to the Council putting forward reasons for refusal for Appeal B since that appeal was against the Council's failure to determine the application. However, such action is not unusual and does not conflict with the procedures for dealing with appeals. Accordingly, I have framed the same main issues for both appeals.
5. Notwithstanding the description of development used in the application forms, the appeal proposal involves the siting of 26 static caravans, associated bases, decking, access and parking. The proposed accommodation is variously described in the appeal submissions as caravans, lodges and leisure homes. I will use the neutral term 'units'. At the time of my site visit a number of units had been placed on the site, decking installed and preparatory works undertaken for the proposed access.
6. The revised National Planning Policy Framework (the Framework) was published after the parties had submitted their statements. They were given the opportunity to comment on the revised Framework. I have taken those comments and the revised Framework into account.
7. The Secretary of State for Housing, Communities and Local Government has issued a Holding Direction to East Hertfordshire District Council, directing it to pause work on the emerging District Plan (DP) while he considers whether to call in the DP. The DP has no effect while the Direction is in force and no weight can be attributed to its policies. Both parties referred to policies of the DP in their cases for these appeals and were given the opportunity to comment on the implications of the Direction. I have taken the Direction and the parties' comments on it into account.

Main Issues

8. The main issues in these cases are whether the proposal:
 - would be an appropriate form of development within the 'Rural Area Beyond the Green Belt' having regard to local and national planning policies;
 - would meet local and national policy objectives for sustainable travel;
 - should make provision for affordable housing;
 - would provide satisfactory living conditions for future occupiers.

Reasons

Appropriate Form of Development?

9. The appeal site forms part of the Great Hadham Golf and Country Club and falls within an area designated as Rural Area Beyond the Green Belt for the purposes

of Policy GBC2 of the East Herts Local Plan Second Review April 2007 (LP). Policy GBC3 seeks to restrict new buildings or changes of use in this Area to purposes including essential small scale facilities for outdoor sport and recreation and other essential small scale facilities, services or uses of land which meet a local need, are appropriate to a rural area and assist rural diversification.

10. The appellant argues that the proposal should be regarded as a recreational facility and an employment generating uses and is, therefore, supported by LP Policy GBC3 and DP Policy GBR2, as well as Framework policies for the rural economy. The Council considers that the proposal amounts to residential development and has drawn my attention to supporting text at paragraph 3.16.1 the LP which states that special residential uses, such as caravans and mobile homes will be considered as normal residential development to which relevant policies apply. It, therefore, contends that the proposal conflicts with Policies GBC2 and GBC3.
11. Policy GBC3 refers to 'small scale' facilities. Irrespective of whether the purposed use falls within any of the categories set out in the policy, I consider that the provision of 26 units and associated development cannot be regarded as a small scale facility. The appellant has suggested the use of a condition to restrict the occupation of the units to holiday accommodation. The Council is concerned that the condition would be unenforceable and has suggested that occupation of the units should be controlled through a planning agreement. No such agreement has been submitted. The Council has also suggested a further condition to limit occupiers to a 14 day stay within any three month period. The appellant considers that such a condition would make the proposal unviable.
12. The Framework and the Planning Practice Guidance (PPG) require conditions to be enforceable. The PPG (paragraph ID: 21a-004-20140306 and linked table) advises that unenforceable conditions include those for which it would, in practice, be impossible to detect a contravention or remedy any breach of the condition, or those concerned with matters over which the applicant has no control. As drafted, the condition suggested by the appellant would require the Council to undertake regular and potentially intrusive checks on the nature of the occupation of each unit. Furthermore, the terms of the condition provide no means of verifying the information obtained. I consider that this level of control would not be practical with regard to detecting any contravention of the condition. Nor is it clear from the information available what control the appellant would have over the occupation of the units and, therefore, against whom, if anyone, the suggested condition would be enforceable.
13. The appellant argues that the condition is widely used and cites an example of similar wording imposed on a planning permission for a lodge development just outside Peterborough. I have not been provided with the full details of that case. In any event for the reasons set out above, I consider that the suggested condition would not be enforceable. In the absence of an enforceable restriction on the occupation of the units, and have regard to LP paragraph 3.16.1, it would be reasonable to regard them as normal residential development.
14. Moreover, even if an enforceable mechanism for restricting occupation of the units to holiday accommodation were put forward, it would not link the occupation of the units to the operation of the golf course. It would allow unrelated occupation of the accommodation, which would not be supported by Policy GBC3.

15. Framework paragraph 80 requires significant weight to be placed on the need to support economic growth. Paragraph 83 advises that planning decisions should enable the sustainable growth of all types of businesses in rural areas and sustainable tourism and leisure developments which respect the character of the countryside. Paragraph 84 recognises that sites to meet rural business needs may have to be located outside of existing settlements and in areas that are not well served by public transport.
16. The appellant has provided some information on the long term financial viability of the golf course business and argues that additional income from the proposal is required in order to secure its future and safeguard existing employment. No accounts have been submitted, although it is reported that the loss in the period ending 31 May 2015 was some £68,000. The appellant has also advised that the existing car park is in need of repairs which would cost some £300,000, although no costings for these works have been provided. The submitted information in the Design and Access Statement indicates that the intention is to sell all of the units to provide a capital injection into the golf course business. The owners would also pay plot fees. However, the Statement then goes on to say that the units will be made available to rent. It is not clear how both of these outcomes would be compatible. In any event, no mechanism has been put forward to ensure that capital receipts, plot fees or rental income would be used to support the golf course business.
17. I recognise that, even though the occupation of the units would not be directly linked to the golf course, given their location, it is likely that an appreciable proportion of occupiers would use the course, pay green fees and spend money in the restaurant, bar, Pro-shop and so on. The proposal has the potential therefore, to help safeguard the existing 50 or so jobs at the golf course. However, in the absence of a financial appraisal to relate this expenditure to the losses sustained by business, or a mechanism to link the capital and/or revenue receipts from the units to the golf course, it is difficult to establish the extent to which the proposal would support the long term future of the golf course business.
18. On one hand, if the units were developed and the golf course business failed anyway, the result would be significant, unjustified development in a location where the prevailing policies seek to restrain new buildings. On the other hand, if the scale of the proposed development and consequent income generation, was significantly in excess of the financial needs of the golf course, it could result in a larger scheme than would be justified by that need. Again, such an outcome would not accord with the prevailing policies of restraint.
19. It would be reasonable to expect the occupiers of the units to generate additional expenditure for local businesses other than the golf course and the appellant has provided some information on the extent of that expenditure by reference to a report entitled 'Economic Benefits Of Rural Tourism To Rural Estates'. I also acknowledge that the proposal would generate new direct employment, although the number of jobs to be created is not clear. The Design and Access Statement refers to at least three permanent jobs, whereas the Addendum refers to at least eight. Even if the job creation were at the upper end of the numbers put forward, it would be incidental to the essential function and form of the development which is the provision of 26 units of accommodation.

20. Policy LCR2 of the LP supports, in principle, suitable new, and extensions to existing, tourism enterprises. The appellant has cited examples of the development of lodges at other golf courses. However, I have not been provided with the full circumstances of the planning decisions in those cases or the local planning policy context. Consequently, it is not possible to establish the extent to which those schemes are comparable with the current proposal and I can give them limited weight. Moreover, I have already found that there is no planning mechanism to link the appeal proposal to the golf course business. Nevertheless, the additional expenditure and the job creation resulting from the proposal are supported by local and national planning policies for the rural economy. This amounts to a benefit of the proposal irrespective of the nature of the occupation of the units.
21. The appellant also states that there are no similar facilities in the area and there is a demand for the proposed units. However, tourist accommodation can take many forms and no assessment has been made of the demand for tourist accommodation in the area, whether the form of accommodation proposed would meet that demand or the extent to which that demand is being met by existing provision. As such, the need for the form of accommodation proposed, as opposed to market demand in the form of interest from potential occupiers, has not been satisfactorily demonstrated.
22. There are limited views of the land proposed for development from Great Hadham Road. However, the LP Policies GBC2 and GBC3 seek to maintain the rural character of the area and paragraph 170 of the Framework requires the intrinsic character and beauty of the countryside to be recognised. Paragraph 127 also requires development to be sympathetic to local character, including its landscape setting.
23. The appellant argues that the area proposed for development should not be regarded as undeveloped land on the basis that it has been the subject of tipping, irrigation works and the formation of the golf course. It also advises that the land was not in active use prior to the installation of the units. The land was, therefore, free from built development and essentially open in character. The existing golf and country club buildings and associated roads and parking area form a reasonably compact group which is fairly well related to the site's Great Hadham Road boundary. The appeal proposal would result in a significant extension of built development westwards from that group into an area which, whilst unused, by virtue of its openness, has a greater affinity with the golf course landscape than the built development. The proposal would, therefore, result in the urbanisation of the land. The limited planting proposed would do little to assimilate the development into its surroundings. The rectangular form, regimented layout and modern, timber clad appearance of the units would have little in common with traditional rural buildings.
24. Consequently, I find that the proposal does not fall within any of the categories of development identified in LP Policy GBC3 as appropriate in the Rural Area Beyond the Green Belt and would, therefore, conflict with that policy and well as with Policy GBC2. The proposal would also conflict with Framework paragraphs 127 and 170 by virtue of its impact on the character of the area. The proposal would have some economic benefits, although they would not be satisfactorily linked to the golf course business to allow the proposal to be regarded as a rural diversification project. Therefore, the limited support that the proposal would

derive from Framework paragraphs 80, 83 and 84 would not be sufficient to outweigh the identified conflicts with the LP and the Framework.

25. For the avoidance of doubt, I have not treated the proposal as falling within the Green Belt and have not sought to apply LP or Framework Green Belt policies.

Sustainable Travel

26. Together, LP Policies SD1 and TR1 promote sustainable travel patterns and require proposals to incorporate measures to allow alternatives to private car use. Framework paragraphs 108 and 110 promote sustainable transport modes and give priority to pedestrian and cycle movements and encourage public transport use. I have already found that the proposal should be regarded as normal residential development. Therefore, Framework paragraph 84, to the extent that it allows for rural businesses in areas not well served by public transport, does not support the proposal.
27. Occupiers of the units would have access to a limited range of facilities at the golf course and country club. However, they would need to travel elsewhere for most day to day needs. The site is a considerable distance from a wider range of local services and facilities and is not well served by public transport. No measures for facilitating travel other than by private car have been proposed. Occupiers would, therefore, be largely reliant on travel by private car. As such, I consider that the appeal proposal would not generate sustainable travel patterns contrary to LP Policies SD1 and TR1 and Framework paragraphs 108 and 110
28. The second reason for refusal also cites LP Policy ENV1. However this policy is concerned with design and environmental quality and, therefore, adds little to my consideration of this issue.

Affordable Housing

29. Policy HSG3 of the LP requires the provision of up to 40% affordable housing on suitable sites in accordance with the requirements of Policy HSG4. These include the proximity of the site to local services, the economics of provision and the need to achieve a successful housing development. Since I have found that the proposal should be regarded as normal residential development, these policies apply. No provision has been made to secure the delivery of affordable housing and, whilst I recognise that the appellant takes a different view of the nature of the accommodation, nor has it been contended that the provision of affordable housing would make the scheme unviable or that the appeal site is not suitable for affordable housing. Therefore, I find that the proposal should make provision for affordable housing and, in the absence of such provision, it conflicts with LP Policies HSG3 and HSG4.

Living Conditions

30. Some of the proposed units would be sited with their longest elevations considerably less than 10m apart. No floor plans or elevations have been provided and therefore it is not possible to know whether these facing elevations would contain windows serving rooms used for significant periods of the day. In the absence of this information, it has not been adequately demonstrated that the units would provide an adequate standard of privacy and outlook for future occupiers and, consequently, offer satisfactory living conditions. The appellant argues that it has extensive knowledge and experience of operating holiday lodges and that the owners of the five lodges already sold do not consider them

to offer poor amenity. However, I have considered this matter on the basis that the proposal should be treated as normal residential development.

31. The proposal would, therefore conflict with LP Policy ENV1 to the extent that it requires development to respect the amenity of future occupiers.

Other Matters

32. Neither party considers that the Direction suspending the DP has a significant bearing on the outcome of the appeal. The appellant considers that the appeal should be determined in accordance with the Framework only. However, no substantive evidence has been provided to demonstrate that the relevant policies of the LP are out of date or inconsistent with the Framework. The LP constitutes the development plan for the purposes of Section 38(6) of the 2004 Act¹. That provision requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Whilst the Framework is one such consideration, I have found that the proposal is in conflict with some policies of the Framework. The limited support it derives from other policies do not outweigh the conflicts with the development plan.
33. The appellant has expressed extensive concerns regarding the Council's approach to dealing with the proposal, its handling of the application and appeal and what regarded as its manipulative approach to the management of development. It is also alleged that the Direction suspending the DP is indicative of the Council's negative and restrictive approach to development in the area generally. It is not for me to pre-judge the outcome of the Direction or the plan-making process. My decision is based purely on the planning merits of the proposals in this case. Other mechanisms exist for dealing with complaints against the Council.
34. A number of lodges have been erected on the site and some of the infrastructure installed. The decision to proceed with the scheme in advance of the grant of planning permission was at the risk of the developer.
35. The appellant has submitted a large number of letters of support for the proposal. There is some dispute over the exact number. Nevertheless, all of the letters use the same wording and express the view that the proposal would benefit the club and the local economy. I have addressed those matters above.
36. Reference has also been made to a proposal for the siting of caravans in connection with a water skiing and wakeboard business at a site at Tallington, Lincolnshire. The limited information provided indicates that the Council in that case found that the proposal amounted to rural diversification which would enhance the provision of leisure and recreational facilities. For the reasons set out above, I have found that such considerations would not adequately justify the proposal in this case.
37. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.

Planning Balance and Conclusion

38. I have found that the proposal would not be appropriately located, would result in unsustainable travel patterns and would not provide satisfactory living

¹ Planning and Compulsory Purchase Act 2004

conditions for future occupiers. As such, it would conflict with relevant policies of the adopted Local Plan, which carry full weight. Therefore, in accordance with paragraphs 11 and 12 of the Framework the proposal should not be regarded as sustainable development and does not benefit from the presumption in favour of sustainable development.

39. I have found that proposal would benefit the local economy, although the scale of the benefit arising from 26 units would be modest. I have also found that the claimed benefits in supporting the golf course and country club have not been adequately substantiated or secured by an enforceable planning mechanism. Consequently, I can give them limited weight. Overall, therefore, the benefits of the proposal do not outweigh its harms and do not justify determining the appeal other than in accordance with the development plan.
40. For the reasons set out above, both appeals should be dismissed. Appeal B was against the failure of the Council to determine the application. For the avoidance of doubt, therefore, I also confirm that planning permission should be refused for that proposal.

Simon Warder

INSPECTOR



Appeal Decision

Site visit made on 21 August 2018

by Rachael A Bust BSc (Hons) MA MSc LLM MEnvSci MInstLM MCI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2018

Appeal Ref: APP/J1915/W/18/3202963

Golden Brook, Gilston Park, Gilston CM20 2RG

- 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 R Macgilchrist against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0350/HH, dated 12 February 2018, was refused by notice dated 13 April 2018.
 - The development proposed is "agricultural machinery store abutting an existing wall which encloses a listed walled garden. The proposed agricultural machinery store is to be situated on the outside of the walled garden."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal.
3. The Council sought to change the description of development at the registration stage of the application and remove the reference to 'agricultural'. I note that the appellants did not agree to this change. I have therefore dealt with this appeal based upon the appellants' description of development taking into account the evidence presented to me and my observations on site.

Main Issues

4. The appeal site lies within the Metropolitan Green Belt and as such the main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - if the development is inappropriate, the effect of the proposal on the openness of the Green Belt; and
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposed development.

Reasons

Whether inappropriate development in the Green Belt

5. The appeal site consists of a former gardener's cottage and a listed walled garden that is associated with the historic estate of Gilston Park. According to the listing description¹ for the wall, the gardener's cottage (now known as 'Golden Brook') is much altered and of no specific historic interest. The significance of the Grade II listed wall arises from it being a large rectangular walled kitchen garden and is a late dated example of the traditional feature of the English country house.
6. The appeal proposal is for the erection of an agricultural machinery store building attached to the outside of the listed wall. It would measure approximately 9m in width and 5.7m in depth with a mono-pitched roof reaching a maximum height of 4.4m. It would be sited near to an existing outbuilding and constructed of matching external materials.
7. The Government attaches great importance to Green Belts. The essential characteristics of Green Belts are their openness and their permanence.
8. The Framework states at paragraph 145 that the construction of new buildings within the Green Belt would be inappropriate subject to a number of exceptions. In this context the appellants contend that the appeal proposal is a building for agriculture and would benefit from the exception set out in paragraph 145 a) of the Framework. Saved Policy GBC1 of the East Herts Local Plan Second Review was adopted in April 2007 sets out the local development plan policy for proposals within the Green Belt. Although Policy GBC1 pre-dates the Framework, I find that there is consistency in its approach to proposals within the Green Belt.
9. The Council seek to argue that the proposed building is not an agricultural building and is therefore inappropriate development. I have been referred to two appeal decisions, one by the appellant² and one by the Council³. In addition, the appellants have also drawn my attention to case law⁴. I have carefully considered the quoted extracts.
10. Having regard to the provisions of the Framework and case law, if it is accepted that the appeal proposal is an agricultural building then it must, by definition, be deemed to be not inappropriate development. Consequently there would be no requirement to look at the other Green Belt considerations, such as the effect on openness. However, it would still be necessary to assess the appeal proposal against other planning considerations.
11. I must determine the appeal on the basis of the evidence before me. Given the fact that the Framework allows any agricultural building to be deemed not inappropriate without further consideration, it is necessary in my judgement to be satisfied that any proposed agricultural building is actually a genuine

¹ Historic England, list entry number 1175762 – garden walls and pier at north west corner at Gilston Park, Gilston Lane

² Appeal decision partial reference cited by the Council 16/3158090

³ Appeal decision reference APP/J1915/W/16/3145920, dated 24 August 2016

⁴ The appellant cites the case in his appeal statement as *Lee Valley Regional Park v SoS & Another* 22/04/2016. The correct citation for this case is *R (on the application of Lee Valley Regional Park Authority) v Epping Forest District Council and Another* (Rev 1) [2016] EWCA Civ 404 (Admin)

- agricultural building in order to benefit from the exception in paragraph 145 a) of the Framework.
12. Notwithstanding the description of development I note that the original application was submitted as householder development and was determined by the Council as such. The appellants chose to submit a householder application and as such this has to cast some doubt on whether in fact the application can be for an agricultural building. I have taken into account the red line of the appeal site does extend to around 9 acres of land attached to the dwelling known as 'Golden Brook'. No other land owned or controlled by the appellants have been illustrated or indicated.
 13. The declarations made on the original planning application form and the subsequent appeal form both confirm that none of the land is or is part of an agricultural holding. This adds further weight to the view that the appeal proposal cannot reasonably be considered to be an agricultural building.
 14. Whilst I have no doubt that the appellant's land holding requires management, including grass cutting, for which the storage and maintenance of machinery and vehicles may be necessary. However, this in itself does not in my judgement mean that the proposed building would be an agricultural building.
 15. Having regard to the definition of agriculture in section 336 of the Town and Country Planning Act 1990, from my observations at the time of my site visit, I saw no evidence of agricultural activity. The appellant refers to management and maintenance of the grassland throughout the year to enable hay to be harvested. Whilst I note the photograph contained within the appellants' final comments illustrating 2 tractors and the hay bales in a field, no evidence has been submitted to confirm the date or location of where this photograph was taken. In the absence of such definitive information I am unable to be satisfied that this photograph was taken within the red line of the appeal site. At the time of my visit, no such activities were taking place, there was no evidence of the 2 tractors within the vicinity of the site, or storage of hay bales and the grass was short and green.
 16. Taking all matters into consideration, I do not find, on the basis of the limited evidence before me, that the proposed building could reasonably be considered as an agricultural building in terms of the Framework's exceptions. Moreover, the appellant's suggestion that it may be necessary to consider the very special circumstances in this case must therefore cast doubt on the suggestion that the appeal proposal is an agricultural building. If it were then there is no need to consider the issue of very special circumstances. Consequently, this adds further weight to my conclusion on this issue.
 17. Accordingly I can only conclude that the proposed building would therefore be inappropriate development within the Green Belt and contrary to Policy GBC1 of the East Herts Local Plan Second Review and the Framework, paragraph 145.
 18. Having concluded that the appeal proposal constitutes inappropriate development I now go on to consider the effect on the openness of the Green Belt.

Effect on openness of the Green Belt

19. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. In considering openness it is necessary to assess both a spatial aspect and a visual aspect.
20. The proposed building would be sited close to another substantial building. However, it would still introduce new built development into an area currently undeveloped and as such benefits from a degree of openness. Although the location abutting the listed wall would limit the visibility, the proposed size of the building is still significant and not dissimilar to a triple garage or a small dwelling. Consequently, the proposed building by virtue of its size, height, scale and location in combination with the cumulative effect of the other buildings in this location would harm the openness of the Green Belt.

Other considerations and the Green Belt balance

21. Given that the appeal proposal constitutes inappropriate development in the Green Belt, paragraph 143 of the Framework states that inappropriate is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt. Consequently, very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I now turn to these other considerations.
22. As the proposed building would be physically attached to the Grade II listed wall, I must have regard to the statutory duty set out in the Planning (Listed Building and Conservation Areas) Act 1990. I note that the appellant indicates that Listed Building consent has been granted for the proposal⁵ although no further details have been presented as supporting evidence. The proposed design of the building is of a form that might traditionally be found in an orangery or as another structure abutting a garden wall. As such I find that the form and design of the proposed building would preserve the significance of the wall and therefore would not result in harm to the Grade II listed wall.
23. The appellants suggest 2 material factors that they feel amount to very special circumstances that would outweigh any possible harm from the proposed development. Firstly, the appeal site is shown in the emerging Local Plan to be surrounded by the Gilston Area Site Allocation for 10,000 homes which would necessitate the de-designation of the appeal site from the Green Belt. The appellant informs me that the Inspector's Report was received on 9 July 2018. The plan had reached an advanced stage, however, on the 11 September 2018 the Secretary of State issued a holding direction under section 21A of the Planning and Compulsory Purchase Act 2004 preventing the Council from taking any step in connection with the adoption of the emerging Local Plan. Consequently no weight can be attributed to the emerging Local Plan whilst the holding direction remains in force. Although I note the appellants' point, at the present time the appeal site remains within the Green Belt and therefore has to be determined in accordance with the relevant adopted policies.

⁵ Listed Building Consent reference 3/18/0351/LBC, date not provided.

24. A second material factor suggested by the appellants is that the proposal would enable the historic wall to be repaired. Whilst sympathetic works would be of some benefit to the listed wall, no cogent evidence has been presented to demonstrate that any such repair is dependent upon the approval of this proposal.
25. Taking into account all of the points raised, I find that the other considerations in this case do not clearly outweigh the harm I have identified. Consequently, the very circumstances necessary to justify the appeal proposal do not exist. The adverse impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the development plan and the Framework taken as a whole.

Conclusion

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

Rachael A Bust

INSPECTOR

Appeal Decision

Site visit made on 13 September 2018

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2018

Appeal Ref: APP/J1915/D/18/3205491
13 Bishops Road, Tewin Wood, Tewin AL6 0NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Southey against the decision of East Herts Council.
 - The application Ref 3/18/0405/HH, dated 21 February 2018, was refused by notice dated 25 April 2018.
 - The development proposed is the rebuilding of the existing defunct single block garage and the addition of a playroom and spare bedroom above.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published on 24 July 2018. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.

Main Issues

3. As the appeal property is within the Green Belt the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy;
 - the effect on the openness of the Green Belt; and
 - if the proposal would be inappropriate development, whether the harm to the Green Belt 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

4. The appeal property is a detached two storey dwelling in a predominantly residential area. The appeal site is an irregular plot set behind properties with frontages on Bishops Road. The site and surrounding area include mature planting and woodland, giving a verdant, semi-rural character and appearance.

Whether the proposal is inappropriate development

5. The Framework makes clear at paragraph 145 (formerly paragraph 89) that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a small number of exceptions. One of these is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
6. The Council refers to Policies GBC1 and ENV5 of the East Herts Local Plan Second Review 2007 (the Local Plan). Policy GBC1 concerns development in the Green Belt and criterion (d) specifically addresses extensions or alterations to existing dwellings by reference to Policy ENV5. This states that outside defined settlements 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. It also refers to the effect on the openness of the area, which is considered under another main issue.
7. I am unaware of the definition of 'original dwelling' with regard to these policies, whereas the Framework defines 'original building' as meaning the building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally. Despite this and the fact that these development plan policies refer to dwellings rather than buildings, they otherwise accord with more recent guidance in the Framework. Accordingly, both policies are relevant in the context of this appeal and, therefore, I give them weight and have taken account of them as well as the Framework.
8. The Council indicates that there have been a number of extensions to the property since it was first built and that these amount to a 49% increase in floor area compared to that of the original building. The proposal would remove the existing single storey element to the side and add a two storey extension in its place. The overall enlargement of the original building would amount to some 152m² floor area, which equates to an 87% increase.
9. The appellant disputes these figures and refers to a previous extension and the current proposal amounting to an increase of just under 44%. The appellant contends that this is below the 50% increase permissible by Green Belt policy. However, no specific policy is referred to in this regard and I am unaware that the policies referred to by the Council include a quantifiable measure of what may or may not be disproportionate. Therefore, I give this little weight for the purposes of this assessment.
10. In any case, assessing proportionality is primarily an objective test based on size and, therefore, floorspace is not the only possible measure of the degree of change. It is instructive to compare any changes to the original physical size and scale of a building, including the degree of bulk or mass that might be added, particularly as the main parties have provided different evidence concerning the increase in floor area.
11. The proposed side extension would be of the same depth as the existing two storey dwelling. It would, however, infill the existing passageway between the garage and dwelling, creating a fully joined extension. This would be of greater width than the existing single storey element and would include a substantial front gable that would add considerable bulk to this part of the dwelling.

Moreover, despite the set down from the existing roof ridge the extension would be of substantive height and would create a considerably wider building across two storeys. Overall it would represent a significant addition that would materially change the proportions of the host dwelling.

12. By either parties' assessment, the previous and proposed extensions would result in a material increase in the floor area of the dwelling. More particularly, however, for the above reasons the proposal would add considerable bulk and mass, significantly altering the original built form. Consequently, I find that the proposal would result in a disproportionate addition over and above the size of the original building. Therefore, I conclude in accordance with the provisions of the Framework and the development plan policies referred to that the proposal would be inappropriate development in the Green Belt.

Effect on openness

13. The Framework states that the essential characteristics of Green Belts are their openness and their permanence. I have found above that the proposed extension would add considerable bulk and mass across two storeys and, therefore, there would inevitably be some effect on the openness of the Green Belt. However, the development would occur within a self-contained and relatively large residential curtilage and, moreover, the changes to the rear would not be readily visible due to the property's position and extensive boundary planting. Consequently, on balance I conclude that the proposal would not have a harmful effect on the openness of the Green Belt in this location. As such, there is no conflict with the Framework or Policy ENV5 of the Local Plan, as described above.

Other considerations

14. The appellant refers to a number of other considerations in support of the appeal. I acknowledge that the proposal is intended to create additional living space; and that the extended building would be energy efficient, and use responsibly and locally-sourced matching building materials and local labour; and would include a landscaping scheme intended to create wildlife habitat. I accept also that the current single storey structure is unsafe and needs to be rebuilt.
15. While I have carefully considered these matters they are not a sufficient reason individually or collectively to outweigh the harm to the Green Belt and conflict with national and local policies that I have found would result from the proposal. The fact that there was no pre-application discussion or site visit are matters for the Council and not for consideration as part of this appeal, which I have determined on the basis of the appeal submissions and site inspection.

Overall conclusion

16. The proposed development would represent inappropriate development, which is, by definition, harmful to the Green Belt. While I have concluded that there would be no harm to the openness of this part of the Green Belt, this is a neutral factor in the overall consideration of the proposal's effects which does not outweigh the other harm that has been found.

17. There are no other considerations raised in support of the development that would outweigh the harm identified to the Green Belt. Therefore, very special circumstances do not exist and permission should not be granted as the proposal is contrary to guidance in the Framework and to the development plan policies referred to. Accordingly, for the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR



Appeal Decision

Site visit made on 13 September 2018

by **J Bell-Williamson MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 October 2018

Appeal Ref: APP/J1915/D/18/3204775 20 Letty Green, Hertford SG14 2NZ

- 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 C Cirillo against the decision of East Herts Council.
 - The application Ref 3/18/0706/HH, dated 27 March 2018, was refused by notice dated 22 May 2018.
 - The development proposed is demolition of rear outbuildings and the erection of a new two storey side extension (amended scheme).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published on 24 July 2018. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.

Main Issues

3. As the appeal site is within the Green Belt the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy;
 - the effect on the openness of the Green Belt and on the character and appearance of the host dwelling, adjoining properties and surrounding area; and
 - if the proposal would be inappropriate development, whether the harm to the Green Belt 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

4. The appeal property is an end-of-terrace two storey dwelling in a short terrace of four cottages located within the village of Letty Green.
 5. Both main parties refer to previous unsuccessful applications for development at the appeal property (references 3/09/1184/FP and 3/17/1665/HH). While I
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note these earlier proposals and decisions, including the appellants' contention that the current proposal seeks to respond to the earlier reasons for refusal, this appeal involves a separate proposal which I have considered on its own merits.

Whether the proposal is inappropriate development

6. The Framework makes clear at paragraph 145 (formerly paragraph 89) that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a small number of exceptions. One of these is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
7. The Council refers to Policies GBC1 and ENV5 of the East Herts Local Plan Second Review 2007 (the Local Plan). Policy GBC1 concerns development in the Green Belt and criterion (d) specifically addresses extensions or alterations to existing dwellings by reference to Policy ENV5. This states that outside defined settlements 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. It also refers to the effect on the openness of the area, which is considered under another main issue.
8. I am unaware of the definition of 'original dwelling' with regard to these policies, whereas the Framework defines 'original building' as meaning the building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally. Despite this and the fact that these development plan policies refer to dwellings rather than buildings, they otherwise accord with more recent guidance in the Framework. Accordingly, both policies are relevant in the context of this appeal and, therefore, I give them weight and have taken account of them as well as the Framework.
9. The main parties concur that the original dwelling's floor area was just over 97m². The net result of the proposed extension and demolition of the property's rear element and outbuilding would be an increase of 48m² or around 48% above the area of the original dwelling. Assessing proportionality is primarily an objective test based on size. Therefore, floor area should not be the sole basis for considering whether such a change is disproportionate compared to the original building, particularly as no quantitative guidance is provided in local or national policy with regard to what might be considered disproportionate. As such, it is important to consider this issue in terms of the scale, bulk, massing and built form that would result from the changes sought.
10. The existing dwelling is a modestly-sized cottage of limited width with a gable as the main element of its front elevation. To the rear, limited changes would result from the demolition of the single storey projection and detached outbuilding. These do not represent significant elements of the original dwelling in terms of their scale, bulk or mass. In contrast, however, the two storey extension would effectively replicate the existing front gable across the full two storey depth. It would therefore materially alter the proportions of the dwelling, adding substantive bulk across the building as a whole.
11. Overall, therefore, the proposed extension would result in a material increase in the floor area of the dwelling and would add considerable bulk and mass,

materially altering the original built form. Consequently, I find that the proposal would result in a disproportionate addition over and above the size of the original building. Therefore, I conclude in accordance with the provisions of the Framework and development plan policy that the proposal would be inappropriate development in the Green Belt.

Effect on openness and character and appearance

12. The Framework states that the essential characteristics of Green Belts are their openness and their permanence. I have found above that the proposed side extension would add considerable bulk and mass across two storeys and, therefore, there would inevitably be some effect on the openness of the Green Belt. However, the development would occur within a self-contained residential curtilage with considerable space to the side of the property where the extension would be positioned. Consequently, on balance I conclude that the proposal would not have a harmful effect on the openness of the Green Belt in this location. As such, there is no conflict with the Framework or Policy ENV5 of the Local Plan, as described above.
13. To the front the four cottages form an attractive and highly uniform group of dwellings, with four gables as major features of the terrace, one at either end and two paired in the middle. The addition of another gable to one end of the terrace would harmfully unbalance the existing uniformity, significantly altering the original design, character and appearance of both the host dwelling and the terrace of which it is an integral part. The effects of this change would be readily apparent from the surrounding public realm due to the open setting.
14. Therefore, for the above reasons, I conclude that the proposed side extension would have an unacceptably harmful effect on the host dwelling, adjoining properties and surrounding area. Consequently, it is contrary to Local Plan Policies ENV1, which requires high standards of design and ENV5, concerning extensions to dwellings. These policies are consistent with the Framework.

Other considerations

15. The appellants refer to a number of other considerations in support of the appeal. The principal one concerns the extent and form of permitted development that could be undertaken. This would be by way of single storey side and rear extensions, and a two storey rear extension. I have no reason to doubt that the appellants may seek to implement this permitted development should the appeal fail and, therefore, it represents a 'fallback' which is material to my consideration of the current proposal.
16. The permitted development that could be undertaken amounts to just over 41m² net in area, which I acknowledge is not significantly less than the size of the appeal proposal by this measure. However, the single storey side extension would add considerably less bulk and mass than the appeal proposal. Moreover, the changes to the rear would not have the same effect as the proposed side extension, both in terms of the proportions of the existing dwelling and its character and appearance, particularly due their less prominent position. I have no evidence to suggest that the permitted development would cause harm to neighbouring occupiers.

17. Therefore, for these reasons, the overall effects in terms of scale and bulk would not be the same with the fallback development and would not result in the same level of harm to the Green Belt. Furthermore, the form and appearance of the fallback development would not be sufficiently incongruous or uncharacteristic compared to the appeal proposal to outweigh the harm that has already been found.
18. Any improvements to the rear of the property as a result of the proposed demolitions would not offset, or are comparable to, the effects of the proposed extension as described. I have had regard to the examples of other development that the appellants refer to. However, it is not clear that these have occurred to a terrace of similar uniformity to the appeal proposal. Moreover, I have found for the above reasons based on the individual merits of the proposal before me that it would result in material harm. Accordingly, for these reasons, these changes to other properties are not a precedent for or directly comparable to the appeal proposal and I give them limited weight.
19. I acknowledge that the proposed extension would be of similar design to the host dwelling and would use matching materials. While I have carefully considered all these other considerations they are not a sufficient reason either individually or as a whole to outweigh the harm to the Green Belt and conflict with national and local policies that I have found would result from the proposal.

Other Matters

20. Concerns about vehicular access across the village green are not within the scope of this appeal, which must be determined on its planning merits.

Overall conclusion

21. The proposed development would represent inappropriate development, which is, by definition, harmful to the Green Belt. Additionally, I have found above that there would be harm to the character and appearance of the appeal property, adjoining properties and surrounding area. While I have concluded that there would be no harm to the openness of this part of the Green Belt, this is a neutral factor in the overall consideration of the proposal's effects which does not outweigh the other harm that has been found.
22. There are no other considerations raised in support of the development that would outweigh the harm identified to the Green Belt. Therefore, very special circumstances do not exist and permission should not be granted as the proposal is contrary to guidance in the Framework and to the development plan policies referred to. Accordingly, for the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR