



Appeal Decision

Site visit made on 2 October 2018

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

an Inspector appointed by the Secretary of State

Decision date: 15 November 2018

Appeal Ref: APP/J1915/W/18/3199917

Land north of Barnacres, Ermine Street, Colliers End, Ware, Hertfordshire SG11 1ER

- 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 Nicholas Baughn against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1329/FUL, dated 7 June 2017, was refused by notice dated 9 March 2018.
 - The development proposed is the erection of 3no. dwellings, 2 x 2 bedroom, 1 x 3 bedroom houses with associated parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the Council made its decision the revised National Planning Policy Framework (the Framework) has been published. 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. During the appeal process the emerging East Herts District Plan (DP) was progressing and parties had opportunities to provide their views on the relevance of emerging policies. On 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 DP. The effect of the holding direction was that whilst it remained in force no weight could be given to the emerging plan. The main parties were offered an opportunity to comment on the implications of the holding direction for this appeal.
4. On 12 October 2018 the Secretary of State withdrew the holding direction and the Council subsequently adopted the DP on 23 October 2018. As all applications and appeals must be determined in accordance with the relevant adopted policies at the time of their decision, this appeal has therefore been determined in line with the policies contained within the DP, adopted 2018.
5. I have used the Council's address for the appeal site in the heading to this decision since it was more precise than that contained within the application form.

Application for costs

6. An application for costs was made by Nicholas Baughn against East Hertfordshire District Council. This application is the subject of a separate Decision.

Main Issues

7. The main issue is whether the appeal site is an appropriate location for the proposed development having regard to the provision of the development plan.

Reasons

8. Colliers End is identified as a Group 2 Village in the DP and has a village development boundary set out on the Policies Map. Within Group 2 Villages Policy VILL2 of the DP allows for limited infill development to take place subject to a number of criteria. The appeal site lies outside of the defined village development boundary; consequently the appeal proposal is not supported by Policy VILL2 of the DP.
9. The appeal site consequently lies within the 'Rural Area Beyond the Green Belt' where the provisions of Policy GBR2 of the DP apply. The policy only allows for the provision for Rural Exceptions Housing in accordance with Policy HOU4 of the DP. The appeal proposal does not encompass rural exceptions housing. Moreover it has not been suggested to me that the appeal proposal falls within the scope of any of the other criteria within Policy GBR2 of the DP.
10. My attention has been drawn to the grant of planning permission¹ on the appeal site for 3 affordable dwellings which was approved as rural exceptions affordable housing scheme. Given that this fall-back scheme is for a form of development that would be acceptable under Policy GBR2 of the DP, this is materially different to the appeal proposal before me.
11. The appellant has referred me to other appeal decisions² and a recent planning decision³. Insufficient information has been provided to fully understand the planning circumstances that were taken into account in the determination of these schemes. In any event, all of these decisions were taken under the provisions of the previous Local Plan. The recent adoption of the DP establishes a clear and up to date policy context against which this appeal must be determined.
12. I find that the appeal site is not an appropriate location for the proposed development. It conflicts with Policy GBR2 of the DP, which seeks, amongst other things, to restrict development to maintain the rural area beyond the Green Belt as a valued countryside resource.

Other matters

13. A number of other planning considerations have been raised by interested parties including drainage, flood risk, parking, highway safety, impact on the landscape, character and appearance, ecology and impact on the living conditions of existing occupiers. In determining this appeal as the nearby property 'Barnacres' is a Grade II Listed Building I have had regard to the

¹ Planning permission 3/18/1149/FUL, dated 4 September 2018.

² Appeal decisions: APP/J1915/W/15/3121638 and APP/J1915/W/16/3150971

³ Planning permission 3/17/1582/FUL (undated Officer Report)

statutory duties set out in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, given that the appeal proposal is unacceptable in principle, it is not necessary for me to go on to consider these other matters in detail.

14. The concern raised by the appellant in relation to the handling of the application by the Council in terms of the length of time taken and the apparent change in position is noted. However, this is a procedural issue which does not concern the planning merits of the case. Accordingly, I have not attached any weight to this matter.

Conclusion

15. Taking all matters into consideration, the appeal is dismissed.

Rachael A Bust

INSPECTOR



Costs Decision

Site visit made on 2 October 2018

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

an Inspector appointed by the Secretary of State

Decision date: 15 November 2018

Costs application in relation to Appeal Ref: APP/J1915/W/18/3199917 Land north of Barnacres, Ermine Street, Colliers End, Ware, Hertfordshire SG11 1ER

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Nicholas Baughn for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for the erection of 3no. dwellings, 2 x 2 bedroom, 1 x 3 bedroom houses with associated parking.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) in paragraph 030 advises that, irrespective of the outcome of a planning appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Costs cannot be claimed for the period during the determination of the planning application, although behaviour of the parties at this time can be taken into account.
3. The PPG provides a number of examples of unreasonable behaviour by local planning authorities. The applicant does not cite any specific example taken from the PPG.
4. The applicant contends that the Council has behaved unreasonably. This is due to the planning application taking 8 months to be determined during which time additional information was requested and provided relating to a water drainage strategy.
5. The Council defended its position by offering a response to the costs application. They indicate that circumstances regarding the 5-year housing land supply changed during the determination period. Furthermore the applicant was fully aware of the importance of securing satisfactory drainage on this site given a judicial review on a previous planning permission.
6. Given the planning history of the appeal site and in particular the consequences arising from the successful judicial review, did require the Council to carefully consider the planning application and the drainage strategy in particular. Furthermore, given the circumstances it would be reasonable to expect the

Council to ensure that it had sufficient information together with appropriate responses from relevant statutory consultees to reach a decision having also taken account of specialist legal advice.

7. The applicant in his appeal statement refers to having agreed an extension of time for the determination of the planning application through to the 15 September 2017. From the information before me I have no indication as to whether the applicant agreed to any further extensions of time. However, I note that the applicant did not choose to exercise their right of appeal against non-determination.
8. Therefore having carefully considered the points raised by the applicant, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly I determine that the costs application should fail and no award is made.

Rachael A Bust

INSPECTOR



Appeal Decision

Site visit made on 2 October 2018

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

an Inspector appointed by the Secretary of State

Decision date: 15 November 2018

Appeal Ref: APP/J1915/W/18/3197977

40 Firs Walk, Tewin Wood, Tewin, Hertfordshire AL6 0NZ

- 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 Tim Plummer against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1802/FUL, dated 30 July 2017, was refused by notice dated 17 October 2017.
 - The development proposed is "demolition of existing 1.5 storey bungalow and replacement with modern family home".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the Council made its decision the revised National Planning Policy Framework (the Framework) has been published. 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. During the appeal process the emerging East Herts District Plan (DP) was progressing and the parties had opportunities to provide their views on the relevance of emerging policies. On 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 DP. The effect of the holding direction was that whilst it remained in force no weight could be given to the emerging plan. The main parties were therefore offered an opportunity to comment on the implications of the holding direction for this appeal.
4. On 12 October 2018 the Secretary of State withdrew the holding direction and the Council subsequently adopted the DP on 23 October 2018. As all applications and appeals must be determined in accordance with the relevant adopted policies at the time of their decision, this appeal has therefore been determined in line with the policies contained within the DP, adopted 2018.

Main Issues

5. The appeal site lies within the Metropolitan Green Belt, therefore the main issues in this case are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt; and
 - if the proposal is 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 inappropriate development in the Green Belt

6. The Government attaches great importance to Green Belts. The essential characteristics of Green Belts are their openness and their permanence. Policy GBR1 of the DP identifies that planning applications within the Green Belt will be considered in line with the Framework. 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.
7. One such exception is set out in Paragraph 145 d) which is “the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.” The Framework establishes 2 tests, firstly relating to the use, and then sizes which is an objective assessment of the relative size of the existing and replacement buildings. Whilst the appeal proposal would be the same use thereby passing the first test; the second test is a matter of judgement based on the evidence of each case as the Framework does not provide any definition for ‘materially larger’.
8. The existing dwelling is a bungalow with single garage. Based upon the design and materials it is likely to have been constructed in the late 1950s. The appellant describes the bungalow as being 1½ storey, however from the submitted plans all of the living accommodation is illustrated on a single ground floor level and is therefore consistent with a bungalow. Whilst I noted a box dormer within the roof slope I did not observe any staircase within the property at the time of my site visit. The proposed replacement dwelling would be a 2-storey dwelling.
9. There is a general agreement between the main parties regarding the internal floorspace of the existing dwelling¹. I shall use the Council’s figure of 180 square meters which is marginally larger than the appellant’s figure as the baseline. Whilst the appellant does not present any volumetric indication of the existing dwelling, I note that he does not dispute the Council’s figure of 613 cubic metres.
10. The appellant indicates that the proposed replacement dwelling would have a gross internal floorspace of 405 square metres, which would include the garage and balconies. This figure is disputed by the Council who suggest that it would

¹ Appellant indicates as being 178 square metres as contained within paragraph 10 of the Design and Access Statement; and the Council suggests the figure is 180 square metres.

be in the order of 512 square metres. In volumetric terms the appellant suggests that the proposed dwelling would be 1,876 cubic metres, whereas the Council suggests that the volume would be 1,320 cubic metres, although I note that this calculation excludes the garage and front canopy.

11. The evidence presented by the appellant clearly demonstrates that the proposed dwelling would be materially larger than the one it replaces. As such it fails to meet the requirement of paragraph 145 d) of the Framework and therefore has to be considered to be inappropriate development in the Green Belt which is contrary to Policy GBR1 of the DP.

Openness

12. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness and permanence are essential characteristics of Green Belts.
13. The proposed replacement dwelling would be a different design to the existing dwelling. Having regard to the variety of designs within Firs Walk and the surrounding area, I do not find that the proposed design would in itself be harmful. However, the proposed dwelling would be wider, deeper and higher than the existing dwelling.
14. Accordingly I find that the mass, size and bulk of the proposed dwelling would result in an increase in the built form within the site such that it would harm the openness of the Green Belt. As such it would conflict with the aims of the Framework which seek to preserve the openness of the Green Belt. I give substantial weight to that harm.

Other considerations and the Green Belt Balance

15. Given that the appeal proposal constitutes inappropriate development in the Green Belt, paragraph 143 of the Framework states that inappropriate development 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.
16. From the planning history contained within the Officer's Report I note that a certificate of lawfulness² has been granted for a single storey side and rear extension on 24 June 2014, together with an application for prior approval for a proposed larger home extension which was also submitted and accepted as permitted development by the Council on 16 May 2017³. It is therefore clear that the appellant wishes to improve the living accommodation. However, neither of these schemes have been implemented to date.
17. The previous Local Plan Policies in force at the time the Council made its decision included consideration of unexpended permitted development rights. No such consideration is included in the DP or the Framework. Nonetheless the appellant argues that the existence of the fall-back position through use of the

² 3/14/0796/CL – single storey side and rear extensions, approved 24 June 2014

³ 3/17/0874/PNHH – single storey rear extensions: depth 8.0 metres, maximum height 4.0 metres, eaves height 2.6 metres – prior approval not required, dated 16 May 2017

permitted development rights should be a relevant material consideration. Although not explicitly stated as such it would appear that the appellant is seeking to argue that this should amount to very special circumstances. In my judgement when considering a fall-back argument it is necessary to assess the nature of the alternative use or operation and the likelihood of that alternative use or operation being carried out.

18. As a consequence of the nature of the existing dwelling and the current permitted development rights, the existing dwelling could be reconfigured into a larger structure without requiring planning permission. The increase in size, bulk and massing in the fall-back position would have a significant impact on the openness of the Green Belt, but these extensions would be lawful by virtue of permitted development rights.
19. The appellant contends that the proposed dwelling would have a smaller footprint and volume than that which can be created using permitted development rights. The Council do not agree, suggesting instead that the proposed dwelling would be slightly larger in footprint and volumetric terms than the fall-back position using permitted development rights. However, the overall height of the proposal would be greater than the extensions allowable under the permitted development rights regime. The bulk, size and massing of the proposed replacement dwelling would be substantial. I find that it would be more harmful to the openness of the Green Belt than that which would arise through the fall-back position.
20. I am not satisfied that there would be a reasonable prospect and likelihood that the fall-back position of using permitted development rights would be implemented if this appeal were to be dismissed. There has been a significant intervening period of time since the Certificate of Lawfulness was granted and no steps have been taken to implement any part of the fall-back position. Consequently, the presence alone of the Certificate and the decision on the prior approval, does not amount to certainty of their implementation and therefore I give the fall-back position moderate weight. Even if I had come to a different conclusion, the fall-back position would be lawful developments which the appellant would be entitled to undertake and therefore is not comparable to the appeal proposal before me.
21. 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

22. For the reasons set out above, having regard to all matters raised, the appeal should be dismissed.

Rachael A Bust

INSPECTOR



Appeal Decision

Site visit made on 30 July 2018

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th November 2018

Appeal Ref: APP/J1915/W/17/3191766

94 Burnham Green Road, Burnham Green, AL6 0NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Lund against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1901/FUL, dated 11 August 2017, was refused by notice dated 5 October 2017.
 - The development proposed is described on the application form as "Redevelopment of site to provide 1no. dwelling including landscaping and associated works".
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of the site to provide 1no. dwelling including landscaping and associated works at 94 Burnham Green Road, Burnham Green, AL6 0NQ, in accordance with the terms of the application, Ref 3/17/1901/FUL, dated 11 August 2017, subject to the conditions set out in the attached schedule.

Procedural matters

2. The revised Framework¹ was published on 24 July 2018. I subsequently gave the main parties the opportunity to comment on this and have taken the response received from the appellant into account.
3. The Council has confirmed that the Local Plan² was superseded by the new District Plan³ adopted on 23 October 2018, with the following policies of particular relevance to the appeal;- GBR1 and DES4. Further consultation was not carried out following this as: - (a) the District Plan adoption has not resulted in any changes to the proposed scheme; (b) Policy GBR1 is specifically based on national policy in the Framework which was consulted upon; and (c) Policy DES4 is similar to the design policies in the superseded Local Plan which the scheme was assessed against. As a consequence, my determination of this appeal is now against the District Plan policies referred to by the Council and I am satisfied this has not prejudiced the interests of any party.
4. At the time of my site inspection, ground works had commenced at the site. The appellant states that these are taking place in connection with the prior approval scheme allowed at appeal⁴ ('the previous scheme'), and that their intention to carry out this development is therefore clear. However, even if this

¹ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, July 2018.

² East Herts Local Plan Second Review, April 2007.

³ East Herts District Plan, October 2018, East Herts Council.

⁴ PINS reference APP/J1915/W/17/3166645 allowed on 12 May 2017.

is the case, in view of the limited extent of groundworks that have taken place, I do not consider there to be sufficient evidence to conclude that a material change in use of the site has yet occurred. My view on this is reinforced by the appellant's confirmation that the existing building is not yet fully in use for residential purposes. I have as a consequence assessed the proposal on the same basis as the Inspector for the previous scheme, namely, that the appeal building has an agricultural use.

5. In any event, and irrespective of the above finding, the lawful use of the site is not a matter for me to determine in a section 78 appeal of the Town and Country Planning Act 1990 ('the Act'). It is open for the appellant to apply to have the matter determined under sections 191 or 192 of the Act or for the Council to take enforcement action if it considers the current use or any subsequent use/development of the land to be unlawful. Any such application or enforcement action would be unaffected by my determination of this appeal.

Main issues

6. Within the context of the Council's reasons for refusal and the evidence in this case, the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt;
 - the effect of the development on the character and appearance of the area;
 - if the development is inappropriate, 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

Appeal site context

7. The appeal site is located on the outskirts of the village in a grass paddock enclosed by mature hedgerows. It contains a mature dilapidated blockwork-constructed agricultural building with adjacent holding pen. Vehicular access to the site is via a 5-bar gate to the eastern corner of the paddock.
8. The northern side of Burnham Green Road beyond the semi-detached pair of historic cottages at Nos 94 and 96 has a clear open countryside character with undomesticated hedgerows and no pedestrian footway. The southern side of the road has a pedestrian footway and consists of mainly detached houses with well-tended front gardens and hedges that extend well beyond Nos 94 and 96 in an easterly direction. As a consequence, this side of the road has a clear residential character.

Whether the proposal would be inappropriate development in the Green Belt

9. Policy GBR1 of the District Plan states that applications within the Green Belt will be considered in line with the provisions of the Framework. Given that; (a) the proposal would not fall within the same use as that already existing (the last known use was agricultural); (b) that the appeal site does not constitute

previously developed land⁵; and (c) that it does not meet any of the other identified exceptions in Paragraphs 145 and 146 of the Framework, I am as a consequence satisfied that it constitutes inappropriate development in the Green Belt.

The effect of the development on the openness of the Green Belt

10. Although the proposed dwelling would be no taller above ground level than the previous scheme and have a marginally smaller footprint, the overall site area would be greater as a result of excavation required for the lightwells surrounding the building, and additional private garden space to the west.
11. However, it is my view that the development would only cause limited harm to the openness of the Greenbelt as: (a) the ground excavation and lightwells would be of a modest scale and not be clearly visible from outside the site; and (b) the private garden would replace an existing holding pen enclosed by a blockwork wall.
12. Whilst I recognise that the proposed scheme could result in parts of the site containing residential paraphernalia such as play equipment, seating, storage and washing lines, it is my view that this could also occur within the more limited curtilage of the previous scheme. I also consider there to be a reasonable prospect that some residential paraphernalia may be contained in the lightwells below ground level and not therefore be clearly visible from public areas. In terms of the visual impact of paraphernalia in the enlarged private garden area, I am satisfied that over time, this will be mostly screened by the new hedgerow.

Character and appearance

13. Although the proposed dwelling would be of a similar scale and form (above ground level) to the previous scheme, it is my view that it represents an improvement as it would enable a more cohesive overall finish and higher quality of construction, as opposed to the 'compromises' that are necessary to 'retrofit' and convert the existing dilapidated and unsightly concrete barn (such as retaining the existing pillars). I am also satisfied that the proposed materials and simple window forms would be compatible with the local agricultural vernacular. Furthermore, the scheme would also result in the replacement of the existing unsightly concrete block walls that form the holding pen with an attractive hedgerow and sympathetic rural fencing (such as post and rail).
14. In view of the above, I conclude that the development would enhance the character and appearance of the area when compared with the fallback scheme. The proposal would therefore accord with Policy DES4 of the District Plan which seeks, amongst other things, to ensure that new development is of a high quality design and layout that reflects local distinctiveness.

Other matters

15. Although representations were made by interested parties in respect of a number of other matters, I did not consider these to be of such significance to alter my conclusions in respect of the main issues. The most significant of

⁵ The Framework's glossary (Annexe 2) states that previously developed land excludes, amongst other things, land that is or was last occupied by agricultural buildings.

these other matters, if not already addressed above, are dealt with below and in the section relating to conditions.

16. I am satisfied that the level of noise generated by future occupants, even when taking into account a greater intensity of use of the site, would be consistent with the surrounding residential area and that any significant disturbance could be suitably controlled under other legislation. Any noise and disturbance during the construction works would only be temporary and could also be suitably controlled under other legislation.
17. The site is not allocated in the development plan as an important open view and I would not consider it in the public interest to protect the private views of individual properties. The potential displacement of any existing storage taking place on the site has little bearing on the matter before me as this would be subject to normal planning control in an alternative location.
18. The local highway authority and Council have not raised any concerns in respect of the site access and the ability of road infrastructure to cope with the development and I see no reason to take a different view as I found there to be good visibility in both directions at my site inspection and am satisfied that one additional dwelling would not materially increase traffic to dangerous levels or unduly compromise its free flow.
19. I am satisfied that the modest scale of the scheme would not result in any significant intensification of light pollution over and above that already existing within the built-up part of the village directly to the south. Furthermore, the appellant's motives for the development have little bearing on the scheme before me.

Other considerations

20. Paragraph 143 of the Framework states that inappropriate development is by definition harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 144 states that very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
21. I have concluded that the proposal would constitute inappropriate development and therefore be, by definition, harmful to the Green Belt. I have also concluded that the proposal would cause limited harm to the openness of the Green Belt. In accordance with Paragraph 144 of the Framework, I have given substantial weight to this harm in my assessment.
22. However, in view of the groundworks taking place on-site and the appellant's pursuit of pre-commencement condition approval, I consider it highly likely that the previous scheme will be implemented if the current appeal is dismissed. I have as a consequence given this fallback position substantial weight in my assessment.
23. I have also attached substantial weight to what I consider to be an improved design of building when set against the context of a conversion of the existing structure. To my mind, the development would enhance the character and appearance of the area when compared with the fallback scheme, and would not therefore increase the harm identified above to the Green Belt.

24. Overall, I find that the other considerations in this case, namely the fallback position and improved design benefits described above, clearly outweigh the scheme's limited harm to the character, openness and permanence of the Green Belt. Looking at the case as a whole, I therefore consider there to be very special circumstances which justify the development. The scheme would as a consequence accord with Policy GBR1 of the District Plan, which states that applications within the Green Belt will be considered in line with the provisions of the Framework.

Conditions

25. The appellant has confirmed their agreement to the conditions suggested by the LPA. A condition requiring development to be in accordance with the plans is needed for the avoidance of doubt and in the interests of proper planning. A condition relating to external materials is necessary as it is not possible to ascertain the quality of those shown in the design and access statement.
26. Conditions are also needed requiring details of hard and soft landscaping, bin storage, and boundary treatments, to ensure that they are appropriate to the site's countryside setting and the Green Belt. In this respect, it is my view that in addition to new hedgerows, the proposed boundary treatment should be traditional post and rail fencing (and not tall solid timber fencing). The submission of these details will also enable the Council to ensure there is appropriate visibility at the site entrance.
27. To ensure that the proposed dwelling is no taller than the previous scheme, a condition is proposed requiring details of site levels. A condition is also proposed relating to ground contamination and surface water drainage to ensure that the site does not cause any future harm to human health or give rise to any surface water flood risk.
28. To protect the openness of the Green Belt and countryside, and the building's bespoke agricultural design, I have imposed a condition removing permitted development rights to construct any extensions, alterations, outbuildings and additional surfacing.

Conclusion

29. I have found that very special circumstances exist to justify development in the Green Belt, and that the scheme would preserve and enhance the character and appearance of the area when compared with the fallback position of the previous scheme. In view of this, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Fallon

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 the appeal decision.
- 2) The development hereby approved shall be carried out in accordance with the approved plans 473.LN.001, 473.LN.003, 473.PL.001, 473.PL.002, 473.PL.003, 473.PL.004, 473.PL.101, 473.PL.102, 473.PL.201, 473.PL.202, 473.PL.203, 473.MD.01 and the Proposed Access Plan 01.
- 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 commencement of the development 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) Prior to the commencement of development hereby approved, detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to, and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.
- 6) Prior to first occupation 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: (a) hard surfacing materials; (b) bin storage locations, together with material, design and finish of bin storage enclosures; (c) retained landscape features; (d) layout plans and schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate; and (e) an implementation programme for all landscaping work. Thereafter the development shall proceed in accordance with the approved details.
- 7) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details 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 a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 8) 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 unless the LPA dispenses with any such requirement specifically and in writing:
- a) A desk-top study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. The requirements of the LPA shall be fully established before the desktop study is commenced and it shall conform to any such requirements. Copies of the desk-top study shall be submitted to the LPA without delay upon completion.
 - b) 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.
 - c) 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.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, no enlargement, improvement, porches, roof windows, roof extensions or any other alterations of the approved dwellinghouse, or any outbuildings, structures, boundary treatments or additional hard surfacing, shall be constructed or erected (other than that shown on the approved plans) without the specific grant of planning permission from the Local Planning Authority.

End of Schedule



Appeal Decision

Site visit made on 4 September 2018

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2018

Appeal Ref: APP/J1915/D/18/3206789

16 Owles Lane, Buntingford SG9 9JA

- 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 Joseph McNamara against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0213/HH, dated 30 January 2018, was refused by notice dated 18 April 2018.
 - The development proposed is the demolition of the existing garage and conservatory. Removal of the existing roof for a loft conversion, including alterations to the existing roof, removal of two existing chimneys and the addition of three dormers to the front and one large dormer to the rear. Erection of a part two storey, part single storey rear extension and a two storey side extension. Erection of a timber framed outbuilding at the end of the garden.
-

Decision

1. The appeal is dismissed in so far as it relates to the demolition of the existing garage and conservatory, the removal of the existing roof for a loft conversion, including alterations to the existing roof, removal of two existing chimneys and the addition of three dormers to the front and one large dormer to the rear and the erection of a part two storey, part single storey rear extension and a two storey side extension. The appeal is allowed in so far as it relates to a timber framed outbuilding at the end of the garden and planning permission is granted for a timber framed outbuilding at 16 Owles Lane, Buntingford SG9 9JA in accordance with the terms of the application, Ref 3/18/0213/HH, dated 30 January 2018, and the plans submitted with it, in so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1710_02 Location Plan; 1710_ORD4 Block Plan Proposed Garden Building; 20.11.17 Rev.D Garden Building.
 - 2) The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary or incidental to the residential use of the dwelling known as 16 Owles Lane.
 - 3) Prior to the first occupation of the development details / samples of the materials to be used in the construction of the external surfaces of the outbuilding hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.

Procedural Matters

2. I have used the description of the proposal from the Council's decision notice and the appellant's appeal form, because it makes reference to all aspects of the proposal.
3. The erection of the timber framed outbuilding has commenced. The timber frame of the outbuilding was in place during my inspection of the site, although its external sides were unfinished. From the evidence before me it is apparent that the Council considers the design of the outbuilding to be acceptable and that its impact will be minimal. I have considered this element of the scheme in this context.
4. Since the submission of the appeal, a revised version of the National Planning Policy Framework (July 2018) has been published by the Government. This is a material consideration in planning decisions. In relation to the main issues in this appeal, Government policy has not materially changed and it was not therefore necessary to invite any further comments from the different parties involved.
5. Also since the submission of the appeal, the East Herts District Plan (the District Plan) has been adopted by the Council and the policies therein can now be afforded full weight in decision making. The main parties were written to inviting comments on what bearing the adoption has on this appeal, and I have taken their comments into consideration in my decision.

Main Issues

6. The main issues are the effect of the proposal upon the character and appearance of the appeal property and its surroundings; and the effect of the proposal upon the living conditions of neighbouring occupiers at 14 Owles Lane, with particular regard to loss of light and outlook.

Reasons

Character and appearance

Extensions and alterations to the main dwelling

7. The site makes up part of a row of residential properties. The built extents of these properties are setback from Owles Lane, and are set upon a relatively uniform front building line with private rear garden areas behind. The appeal property therefore makes up part of a distinct pattern of development that is in place along this particular side of Owles Lane. The appeal site contains the end property in the row (No 16) and is bound by an agricultural field to the rear and side. The land on the opposing side of Owles Lanes is currently undeveloped, but it is understood that planning permission has been granted for a large scale residential development.
8. No 16 currently takes the form of a modest, brick-built, hipped roof bungalow. The row of properties containing No 16 is characterised by hipped roof bungalows, a number of which are served by dormer window openings that serve habitable roof space. Notwithstanding this, I note that at the other end of the row there is a pair of gable-fronted, semi-detached houses of a full 2 stories in height (both of these houses have hipped roofs) and that the neighbouring property to the right when viewed from the front of the appeal

- site (No 14) is of gabled roof form to both of its sides. The ground level gradually falls away as you move along the row of properties from the appeal site.
9. The proposed extensions and alterations would substantially alter the appearance of No 16, most strikingly at roof level where the property would be entirely remodelled in order to accommodate a first floor level. The existing hipped roof (and existing chimneys, one on either side of the property) would be replaced by a substantially enlarged gable-ended roof that would incorporate a flat roof running the full width of the property at full ridge height.
 10. When compared to No 16's existing roof, a slight increase in full ridge height is proposed alongside steeper pitches to both the front and rear slopes of the roof. The bulk and mass would be increased further when taking into account the proposed side and rear extensions to the property that the roof would cover. When considering these factors alongside the somewhat contrived flat-roofed (in part) and gable-ended proposed design, it is considered that the proposed remodelled roof would appear unduly prominent and fail to integrate effectively with the host property. This is even if these elements were constructed in materials to match the existing property.
 11. This prominence is particularly due to the uninterrupted views that are afforded of the outward facing side of No 16 and its slightly higher ground level comparative to neighbouring properties. These uninterrupted views would continue to be available should the development site opposite the appeal site be built out. Whilst the character of the wider area would alter in this event, No 16's direct relationship with its neighbouring row of residential properties would continue to ensue and be readily visible.
 12. I acknowledge that No 14 is a gable-ended property, this is however an anomaly in the row of hipped roof properties containing the appeal site. No 14 is also sandwiched between 2 neighbouring properties, therefore limiting the visibility of both of its sides. Also, No 14 exhibits traditional gable ends with a defined ridge point. The proposed flat roofed element and associated expanses of gable walling would instead appear contrived and discordant with its surroundings.
 13. Notwithstanding the negative effects identified above, the proposed single storey rear extension would be of hipped roof design and sympathetic to the existing host dwelling and surrounding area. I also consider that the proposed front facing dormer windows' designs and proportions would closely mirror those already serving No 14 so as to have an acceptable effect (particularly given the presence of other dormer windows further down the row of properties containing the appeal site). The proposed flat-roofed rear dormer, with the exception of its side facing flank wall, would not be readily visible from public vantage points and does not therefore raise undue concerns when considered in isolation. A notable gap would be retained to the front of No 16 between the proposed side extension and the built extent of No 14 so that any potential harmful terracing effect would be avoided.
 14. For all of the above reasons, I find that the proposed extended and altered main roof would cause harm to the character and appearance of the appeal property and its surroundings. The proposal conflicts with Policies DES4 and HOU11 of the District Plan in so far as these policies require all development proposals, including extensions to existing buildings, to be of a high standard of

design and layout and to reflect and promote local distinctiveness and state 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, or it represents a sustainable or innovative design approach.

Outbuilding

15. The outbuilding, as part-constructed, is a single storey in height and is located adjacent to the rear boundary of the appeal site. It covers a rectangular footprint and close to the full width of the appeal site. The outbuilding is visible from Owles Lane due to its positioning adjacent to an open agricultural field, although this visibility is concealed to a notable extent by virtue of the presence of boundary treatment. There is, within the grounds of No 14, a neighbouring outbuilding of comparable height, format and appearance.
16. In light of its discreet placement and limited scale it is considered that the structure, once completed, would take the appearance of an appropriately designed and positioned outbuilding. The proposed outbuilding would not cause harm to the character and appearance of the appeal site and its surroundings, with particular regard to the design of the proposed scheme and its relationship to the surrounding pattern of development. It complies with Policies DES4 and HOU11 of the District Plan in so far as they require development proposals to be of a high standard of design and layout to reflect and promote local distinctiveness.

Living conditions of neighbouring occupiers at 14 Owles Lane

Extensions and alterations to main dwelling

17. The side gable end of No 14 addresses the appeal site and is setback only a short distance from it. This side gable contains 3 window openings. Of the 2 windows at ground floor, one is obscure glazed and the other appears to be a secondary opening serving a habitable room. At first floor there is a further single opening that would also appear to serve a habitable room.
18. The 2 storey element of the proposal would align with the side gable end and 2 storey extent of No 14 whilst a separation distance, albeit reduced in comparison to the existing arrangement, would be retained between Nos 14 and 16. In light of what the facing ground floor windows of No 14 serve, I have no undue concerns with respect to any potential overbearing or overshadowing relationship. I have taken into account the orientation of the site and the path of travel of the sun in this finding.
19. With respect to the facing first floor window opening of No 14, any potential adverse effects are diminished by virtue of its elevated position. Notwithstanding the extensions and alterations proposed to No 16, acceptable levels of light and outlook would be afforded to this window opening, which currently faces over No 16's hipped roof slope.
20. Just beyond the main built extent of No 16, a single detached garage, which would be demolished, is positioned so as to abut the side boundary to the grounds of No 14. The proposed single storey rear extension, in comparison, would be set away from the side boundary and would be afforded a sloped roof so as to guard against any potential loss of light or outlook.

21. For the above reasons, the proposed extensions and alterations to the main dwelling would not cause harm to the living conditions of neighbouring occupiers at 14 Owles Lane, with particular regard to loss of light and outlook. The proposal therefore complies with Policy DES4 of the District Plan in so far as it requires development proposals to avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and land.

Outbuilding

22. The outbuilding, as part-constructed, is remotely located with respect to the main dwelling of No 14, which is occupied by the nearest residential occupiers to the appeal site. In light of the outbuilding's remote location to the rear of the site, it would have no adverse effects upon the living conditions of neighbouring occupiers.
23. I consider that the proposed outbuilding, once completed, would not cause harm to the living conditions of neighbouring occupiers at 14 Owles Lane, with particular regard to loss of light and outlook. The proposal therefore complies with Policy DES4 of the District Plan in so far as it requires development proposals to avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and land.

Other Matters

24. I do not consider that Policies GBR2, which relates to the District's rural area beyond the Green Belt, and TRA3, which relates to vehicle parking provision, cited by the Council in evidence, are relevant to the main issues of this appeal. I am content that, due to a lack of any evidence to indicate otherwise, the appeal site is not located within the District's designated rural area. The proposed car parking arrangements do not raise undue concerns in any event given the spacious extent of driveway that I inspected on site.
25. The Buntingford Community Area Neighbourhood Plan (NP) was formally adopted in May 2017 and therefore forms part of the development plan. The appeal site falls within the Buntingford Settlement Boundary as defined in the NP. Housing Development Policies HD2, HD3 and HD4 contained within the NP refer to new housing and are therefore irrelevant as the scheme before me relates to proposed extensions to an existing dwelling and the construction of a domestic outbuilding.

Conditions

26. As the erection of the outbuilding has commenced there is no need to condition a time limit for implementation. I have specified the approved plans in the interests of certainty (only the plans depicting the outbuilding are to be approved). A condition relating to external facing materials is necessary to ensure that the appearance of the outbuilding would be satisfactory.
27. A further condition is to be applied to ensure that the outbuilding is only ever occupied for purposes ancillary or incidental to the main dwelling. This is to ensure that the outbuilding is not used as a self-contained unit of accommodation as it has not been assessed on such terms. Both parties have agreed that such a condition would be acceptable.

Conclusions

28. I have found that, in its complete form, the proposed outbuilding would cause no material harm to the character and appearance of the appeal property and its surroundings and to neighbours' living conditions, subject to the above conditions. The outbuilding would be both physically and functionally severable.
29. For the above reasons I conclude that the appeal should be allowed in so far as it relates to a timber framed outbuilding at the end of the garden subject to the conditions specified, but dismissed in so far as it relates to the removal of the existing roof for a loft conversion, including alterations to the existing roof, the removal of two existing chimneys and the addition of three dormers to the front and one large dormer to the rear and the erection of a part two storey, part single storey rear extension and a two storey side extension.

Andrew Smith

INSPECTOR



Appeal Decision

Site visit made on 3 October 2018

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

an Inspector appointed by the Secretary of State

Decision date: 23 November 2018

Appeal Ref: APP/J1915/W/18/3205317

Hill Farm, Anstey Road, Anstey SG9 0BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Berry against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0447/FUL, dated 27 February 2018, was refused by notice dated 1 May 2018.
 - The development proposed is the change of use of detached residential annexe to independent dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of detached residential annexe to independent dwelling at Hill Farm, Anstey Road, Anstey SG9 0BZ in accordance with the terms of the application, Ref 3/18/0447/FUL, dated 27 February 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 13073-P001 (existing plans and elevations), dated 22/09/17 and 13073-P002-A (proposed plans and elevations), dated 23/02/2018.
 - 3) The use of the building as an independent dwelling shall not commence until the new vehicular access has been brought into use. The new vehicular access shall not be brought into use until the visibility splays have been provided on both sides of the access between a point of 2.4 metres along the centre line of the access measured from the edge of the carriageway and a point 10 metres along the edge of the carriageway measured from the intersection of the centre line of the access. The area containing the visibility splays shall be kept free from any obstruction exceeding 0.6 metres in height about the nearside channel level of the carriageway.
 - 4) The use of the building as an independent dwelling shall not commence until a scheme for the boundary treatment has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented within a period of 3 months from the date of approval.

Preliminary and Procedural Matters

2. Since the Council made its decision the revised National Planning Policy Framework (the Framework) has been published. 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. At the time of the appeal submission the emerging East Herts District Plan (DP) was advanced and as a consequence the main parties had the opportunity to comment upon the relevant emerging policies within their appeal submissions. On 11 September 2018 the Secretary of State issued a holding direction on 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 DP. The effect of the holding direction was that whilst it remained in force no weight could be given to the DP. The main parties were offered an opportunity to comment on the implications of the holding direction for this appeal.
4. On 12 October 2018 the Secretary of State withdrew the holding direction and the Council subsequently adopted the DP on 23 October 2018. As all applications and appeals must be determined in accordance with the relevant adopted policies at the time of their decision, this appeal has therefore been determined in line with the policies contained within the DP, adopted 2018.

Main Issue

5. The main issue in this appeal is whether the proposal would be in an appropriate location, having regard to the aims and objectives of national and local planning policies relating to the location and supply of housing in rural areas.

Reasons

6. Anstey is identified as a Group 2 Village in the DP and has a village development boundary set out on the Policies Map. The appeal site lies outside of the village development boundary and as such is within the 'Rural Area Beyond the Green Belt', where the provisions of Policy GBR2 of the DP apply. Policy GBR2 allows for a variety of types of development provided that they are compatible with the character and appearance of the countryside.
7. The appeal property is a former 2-storey barn style detached garage that is located within a group of outbuildings and structures to the north-west of Hill Farm. The group is physically closer to the neighbouring residential properties of 'High Bank' to the north and 'Brambles' to the north-west than Hill Farm. Consequently, the appeal property is not capable of being described as 'isolated'. There has been no formal subdivision of the land. Hill Farm and the appeal property presently share the same vehicular access; although a secondary existing access presently not in use is proposed for the appeal property. The two properties are freely accessible without interference with one another.
8. The Council confirmed that the appeal property benefits from a planning permission which was granted in December 2017¹ for the conversion into a one-bedroom property; however an occupancy condition was imposed which

¹ Planning permission reference 3/17/2408/FUL, dated 19 December 2017

- ... tied the use to being ancillary to the host dwelling of Hill Farm. For a property to be considered as an annexe it is often within close proximity to the host dwelling because it shares the use of facilities, such as kitchen and/or bathroom.
9. At the time of my site visit the appeal property was occupied and possessed the fixtures and fittings necessary to be capable of being a self-contained and independent dwelling. Notwithstanding the occupancy condition it is of significance to this appeal proposal that the Council has already permitted the residential use, whereby the approved plans illustrate the kitchen, bathroom, living room, bedroom and ancillary storage. Given the internal arrangement and facilities I find that there would be very little reliance on the host dwelling in terms of day to day living facilities.
 10. I am mindful of the lawful use of the appeal property and as such the planning judgement must therefore be what material change would there be if the appeal property were to become an independent dwelling. In essence, given the small scale of the appeal property which is already occupied by 2 people there would be no material change in the intensity of use, likely traffic movements or indeed the nature of use.
 11. The appeal proposal does not meet any of the exceptions set out in Policy GBR2 of DP; as such in strict terms it conflicts with the development plan. Nonetheless the policy does not set out the approach to be taken towards the change of use or conversion of existing buildings in the rural area beyond the Green Belt. No other policy has been drawn to my attention which would cover a change of use proposal, in that respect on the evidence before me the development plan would appear to be silent.
 12. In this case I have had regard to the fact that the nature and intensity of residential use of the appeal property would not materially change as a consequence of the appeal proposal. Accordingly I am not satisfied that there would be any additional reliance on the private vehicle than currently exists. Consequently, I am not persuaded that any effective harm would arise from the appeal proposal. In reaching this view I have had regard to the fact that Policy GBR2 of the DP does support the extension, alteration or replacement of a building, although not its change of use. The Policy also supports the complete or partial redevelopment of previously developed sites. As such I have noted that the Policy has a positive approach towards the redevelopment of land and buildings.
 13. No significant external alterations are proposed and therefore as a consequence of the existing design and materials the appeal property already blends into the context of a group of outbuildings. The private amenity space is located to the west and is well screened from the nearest neighbour of 'Brambles'. As such any domestic paraphernalia would not be visible from the public realm.
 14. The appeal site lies within the Anstey Conservation Area and Hill Farm is a Grade II Listed Building, however the appeal property is not curtilage listed. I have had regard to the statutory duties² to pay special attention to the desirability of preserving these designated heritage assets. No significant external changes are proposed to the appeal property which is within an

² S66 and s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

existing group of outbuildings and the delineation of a specific curtilage for the independent dwelling would result in very limited physical change. Consequently the appeal proposal would preserve the setting of the Listed Building and would also preserve the character and appearance of the Anstey Conservation Area.

15. Consequently I find no cogent evidence before me to indicate that any material harm would actually arise from the appeal proposal. The appeal proposal would be contrary to Policy GBR2 of the DP which seeks to limit development in the rural area beyond the Green Belt. However, in this case the appeal proposal would protect the character and appearance of the valued countryside setting. Therefore in this specific case I conclude that material planning considerations outweigh the development plan.

Conditions

16. The Council has suggested 4 conditions and the appellant has had an opportunity within the appeal process to provide any comments. I have considered the Council's suggested conditions in relation to the Framework and the Planning Practice Guidance, amending where necessary in the interests of precision.
17. I have imposed the standard conditions relating to the time limit for implementation and the plans to provide certainty. The suggested conditions relating to the provision of visibility splays for the use of the existing secondary vehicular access and the approval of any means of enclosure prior to occupation are both reasonable and necessary before the use commences as an independent dwelling.

Conclusion

18. The appeal should be allowed subject to the specified conditions.

Rachael A Bust

INSPECTOR



Appeal Decision

Site visit made on 19 October 2018

by **S Poole BA(Hons) DipArch MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 November 2018

Appeal Ref: APP/J1915/D/18/3207688

2 Holly Grove Road, Bramfield, Hertford, Hertfordshire SG14 2QH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs R Mills against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0484/HH, dated 4 March 2018, was refused by notice dated 30 April 2018.
 - The development proposed is the erection of part single storey, part first floor extensions, enlargement of existing first floor window and detached garage.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The East Herts District Plan was adopted on 23 October 2018 and replaces the East Herts Local Plan Second Review 2007. I am required to consider the appeal against the development plan in place at the time of my decision and therefore the policies in the replaced Local Plan are no longer relevant to the appeal. I am satisfied that the policies in the District Plan (2018) are not materially different from those referred to in the decision notice and therefore have not deemed it necessary to seek parties' comments on this matter.
3. A revised National Planning Policy Framework was published on 24 July 2018. I am satisfied that the new Framework does not differ from the 2012 Framework in respect of the matters before me and have not therefore deemed it necessary to seek parties' comments on the revised Framework.

Main Issues

4. The main issues in this case are:
 - (i) whether the proposal would be inappropriate development for the purposes of section 13 of the Framework and development plan policy;
 - (ii) the effect of the proposal on the openness of the Green Belt;
 - (iii) the effect of the proposal on the character and appearance of the host property and the surrounding area;
 - (iv) the effect on the living conditions of the occupiers of 1 Holly Grove Road, with particular regard to natural light and outlook; and

(v) if the proposal is 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

5. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt is inappropriate. A number of exceptions to this are identified including proposals comprising 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 appeal property is a 2-storey semi-detached house, which forms part of a group of similar properties. The property has been extended in the past and the information presented by the Council indicates that the proposed ground and first floor extensions together with the previous extensions would result in a floor area that is more than 66% greater than the original dwelling. This is not disputed by the appellant.
7. In my judgement this represents a disproportionate addition over and above the size of the original building. The proposal is therefore contrary to paragraph 145 of the Framework. For these reasons it would be inappropriate development that is, by definition, harmful to the Green Belt. I attribute substantial weight to this.

Openness of the Green Belt

8. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. The proposal would significantly increase the overall volume, bulk and amount of development on the site reducing, and therefore causing harm to, the openness of the Green Belt. The proposal therefore also conflicts with the Framework in this respect, a matter to which I also attribute substantial weight.

Character and appearance

9. Whilst I note that neighbouring properties have been extended at the rear, the proposed additions would be more substantial than those nearby and would include large areas of flat roof. The proposal would be out of keeping with the scale and appearance of the group of houses and would be an incongruous and overly prominent addition to the host property.
10. For these reasons I conclude that, due to its siting, bulk and design, the proposal would have an unacceptable effect on the character and appearance of the host property and the surrounding area. It therefore fails to comply with District Plan Policy DES4, which requires development to be of a high standard of design and layout that reflects and promotes local distinctiveness. There is also conflict with the aims of the Framework in this respect.

Living conditions

11. The single-storey element of the proposal would result in a substantial area of flank wall next to the boundary shared with the attached property, 1 Holly Grove Road. This would be taller than the fence on this boundary and taller than any fence that can be constructed under permitted development rights. It would greatly enclose the area of garden immediately to the rear of No. 1 and compromise outlook from, and natural light to, the garden room at the rear of No. 1.
12. For these reasons I conclude that the proposal would have an unacceptable effect on the living conditions of the occupiers of No. 1. It is therefore contrary to District Plan Policy DES4 which, amongst other matters, states that development should avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties.

Other considerations

13. I turn now to consider whether there are any considerations sufficient to clearly outweigh the harm identified above in respect of inappropriateness and openness. Very special circumstances to justify inappropriate development will not exist unless the harm is clearly outweighed by other considerations.
14. The appellant indicates that 3 of the neighbouring properties have been extended and have floor areas that are in excess of 56% greater than the original houses in each case. Whilst I note that these properties have been extended in the past, there is nothing before me to demonstrate that the additions are of the scale stated or that the extensions required planning permission. In any event, each application and appeal must be considered on its individual merits and having regard to current development plan policy. As such I attribute limited weight to this matter.

Green Belt balancing exercise

15. The other considerations do not amount to matters that clearly outweigh the substantial harm to the Green Belt which I have identified in respect of the proposal's inappropriateness and effect on openness. Very special circumstances to justify inappropriate development do not therefore exist. The proposal is therefore contrary to the Framework and District Plan Policy GBR1, which states that planning applications within the Green Belt will be considered in line with the provision of the Framework.
16. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should fail.

S Poole

INSPECTOR



Appeal Decision

Site visit made on 30 October 2018

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2018

Appeal Ref: APP/J1915/D/18/3209046
68 Milton Road, Ware, Herts SG12 0QD

- 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 Sophie Fagan against the decision of East Herts Council.
 - The application Ref 3/18/0561/HH, dated 9 March 2018, was refused by notice dated 21 May 2018.
 - The development proposed is 2 storey side extension, 2/single storey rear extension.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant refers to submission of a separate revised proposal for a similar form of extension. However, I am required to consider the appeal proposal on its individual merits and have not, therefore, taken account of any proposed revisions to the proposal before me.
3. The East Herts District Plan was adopted on 23 October 2018 following the Secretary of State's withdrawal of his Holding Direction, which was issued to prevent its adoption. I note, however, that with regard to this appeal the Council relies solely on policies from its Local Plan Second Review 2007.
4. 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

5. The main issues are the effect of the proposal on the character and appearance of the host dwelling and surrounding area; and on the living conditions of the neighbouring occupiers of No 66 Milton Road, with particular regard to the effect on the first floor rear window adjacent to No 68.

Reasons

Character and appearance

6. The appeal property is a two storey semi-detached dwelling in a residential road of similar property types and some bungalows and detached dwellings.
7. The proposed two storey rear extension would include a double hipped roof form with an adjoining flat-roofed single storey element; while the side extension integrated with the rear extension would be in the form of a side-facing gable. The single storey extension would be of limited depth and height, while the lower roof heights of the two storey elements would appear subordinate to the height of the host dwelling. The depth of the two storey rear extension would not be so great that it would harmfully upset the proportions of the host dwelling. Moreover, its depth would not be dissimilar to the rear projection of the adjoining property, No 66, and so would not be uncharacteristic of its immediate surroundings.
8. The roof form would not match the simple dual pitched roof of the host dwelling, but due to the lower height and position to the rear, it would not be so incongruous or prominent that it would result in material harm. No 66 also has a hipped roof to its rear extension, so the changes sought would not be uncharacteristic in this regard.
9. The rear gardens of the properties on Milton Road are at a lower level than the dwellings themselves. Consequently, the proposed rear extension would be prominent from surrounding gardens, although there is good separation from the properties directly opposite. However, for the reasons already given, the scale and appearance of the extended dwelling would not result in significant harm in views from the surrounding area to the rear.
10. The extensions would, however, result in development being brought closer to the neighbouring property to the north-east, No 70. This part of Milton Road includes generous gaps between the pairs of semi-detached dwellings, formed by adjoining driveways. The proposed side extension would be set away from the shared boundary and well set back from the property's front elevation. However, the site inspection and appellant's photograph taken from the front demonstrate that the depth and height of the integrated two storey rear element would be visible in views from the street.
11. The combination of the existing two storey side extension to No 70 and the proposed side extension running to the rear would substantively infill the characteristic gap between the two properties. This would result in the harmful loss of the open aspect between the two properties through the addition of development to the side and rear in close proximity to the neighbouring dwelling.
12. The appellant draws attention by way of comparison to a number of other examples of development in Milton Road. This includes a photograph that is labelled as showing two full width two storey extensions, although no house numbers or more specific location are provided. However, none of the examples that I observed along Milton Road, including those permitted but not built, include two storey development to both adjacent properties as in this case. Furthermore, the majority of dwellings retain a substantive gap between them, particularly at upper floor level, allowing open views to the rear, which is a positive characteristic of the street scene.

13. Therefore, even if another example of adjacent two storey side and rear extensions exists within Milton Road, due to the harmful effects I have found with regard to the proposal before me and the lack of any similar development within the immediately surrounding area, this should not be considered as a direct precedent that outweighs this harm. This is particularly the case where I am unaware of the basis on which any such example was constructed. Other examples referred to are not within Milton Road and do not, therefore, form part of the same street scene.
14. Accordingly, for all the above reasons, I conclude that while the effect of the extensions on the host dwelling would not be harmful, unacceptable harm would result from their effect on the character and appearance of the surrounding area. Consequently, in this regard the proposal is contrary to Policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review 2007, as they relate to design and the effects of development on the character and appearance of the locality. These policies are broadly consistent with more recent guidance in the Framework.
15. I acknowledge that the proposed extensions are intended to create additional living space. However, these personal circumstances do not overcome the harm and policy conflict that I have found would result from the proposal.

Living conditions

16. The wall of the second bedroom shown on the submitted plans would extend in close proximity beyond the first floor window of No 66. While the extended wall would not be of significant depth, No 66 has its own extension of greater depth positioned directly on the opposite side of the window.
17. The orientation of the properties means that there would be no harmful effect on available sunlight to this window. The plans show that the wall would not breach a 45 degree line from the window's centre. Nonetheless, the combined effect of the two walls in such close proximity either side of the window would lead to more oppressive living conditions with regard to use of this room. This would result from an awareness of development either side of the window from the outlook close to it and some reduction in available daylight.
18. Therefore, for these reasons, I conclude that the proposal would have an unacceptably harmful effect on the living conditions of the neighbouring occupiers of No 66 Milton Road, with particular regard to outlook and daylight. As such, the proposal is contrary to the same development plan policies referred to above, insofar as they require development to respect the amenity of neighbouring occupiers.

Conclusion

19. I have found in the appellant's favour with regard to the effect of the proposed extensions on the character and appearance of the host dwelling. However, this is not sufficient to outweigh the harm found in respect of the other elements of the main issues. Therefore, for the reasons given above and having regard to all other matters raised, it is concluded that the appeal should not succeed.

J Bell-Williamson INSPECTOR

Appeal Decision

Site visit made on 30 October 2018

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2018

Appeal Ref: APP/J1915/D/18/3208759
32 The Drive, Hertford, Herts

- 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 A Douglas against the decision of East Herts Council.
 - The application Ref 3/18/0639/HH, dated 13 March 2018, was refused by notice dated 15 May 2018.
 - The development proposed is two storey rear extension.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The East Herts District Plan was adopted on 23 October 2018 following the Secretary of State's withdrawal of his Holding Direction, which was issued to prevent its adoption. I note, however, that with regard to this appeal the Council relies solely on policies from its Local Plan Second Review 2007.
3. 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 Issue

4. The main issue is the effect of the proposed extension on the character and appearance of the host dwelling and surrounding area.

Reasons

5. The appeal property is a two storey detached dwelling in a residential road of similar property types. The Council's principal concerns with regard to the proposed extension are the roof form and central gable. I agree that all other elements would not be harmful.
6. Policy ENV6 of the East Herts Local Plan Second Review 2007 requires extensions to be of an appropriate design to the original building and its setting, and seeks to avoid flat roofs unless, exceptionally, this could appropriately be

incorporated. The existing dwelling has a simple hipped roof with a subordinate front-facing gable.

7. The enlargement of the dwelling would create a greater extent of roofscape, but due to the retention of a similar height to the existing dwelling would include a central flat-roofed element. In this regard, the pitched roof form to front, rear and sides would be maintained and the flat element would be a limited part of the overall roof. As such, the appearance to the front would largely be unchanged. The crown roof would be more apparent in passing views of the side of the extended dwelling, but its appearance and proportions would not be so incongruous or materially different to the existing dwelling that it would result in substantive harm.
8. The properties in this part of The Drive display different roof forms, with considerable variety apparent in the street scene. For example, the neighbouring dwelling No 34 appears to have been extended recently and includes a roof of some visual complexity. In this setting, the change proposed to No 32 would not appear incongruous or uncharacteristic.
9. The central gable to the rear would be of limited depth and would not be uncharacteristic in principle as neighbouring properties also include gables to the rear. However, the height of the gable would be the same as the roof ridge of the main part of the dwelling and the eaves would be positioned above those of the rest of the two storey rear elevation. As such, this element of the extension would appear as a dominant feature due to its height, which would be accentuated by the raised eaves. The gable's height would add bulk at roof level, which would unbalance the proportions of the host dwelling, while the variable eaves height would be an incongruous feature, which would materially harm the dwelling's otherwise harmonious design and appearance.
10. By contrast, where neighbouring dwellings include gables these features are subordinate to the height of the main part of the dwelling and the eaves height is consistent across the whole dwelling. Therefore, in this regard the proposed extension would be incongruous and uncharacteristic in the residential setting and the resulting harm would be readily apparent in views from neighbouring gardens. While the appellants compare the proposed gable to that at the front, this existing feature is of subordinate height to the main roof and the eaves are consistent across the frontage, unlike the proposed rear gable.
11. Accordingly, for the above reasons in respect of the rear gable, I conclude that the proposed extension would have an unacceptably harmful effect on the character and appearance of the host dwelling and surrounding area. Consequently, it is contrary to Policies ENV1 and ENV6 of the East Herts Local Plan Second Review 2007, as they relate to design and the effects of development on the character and appearance of the locality. These policies are broadly consistent with more recent guidance in the Framework.
12. I acknowledge that the proposed extension is intended to create additional living space, including in the converted loft. However, these personal circumstances do not overcome the harm and policy conflict that I have found would result from the proposal.

J Bell-Williamson INSPECTOR



Appeal Decision

Site visit made on 17 October 2018

by **P B Jarvis DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 November 2018

Appeal Ref: APP/J1915/D/18/3207884 20 Redan Road, Ware, Herts SG12 7NJ.

- 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 Olly Ayres against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0677/HH, dated 25 March 2018, was refused by notice dated 8 June 2018.
 - The development proposed is a single storey rear extension.
-

Procedural Matter

1. Since the appeal was submitted it has been confirmed that the East Herts District Plan 2011 to 2033 (2018) (DP) has been adopted. I therefore refer below to the policies of that plan.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is the effect on the living conditions of the occupiers of the neighbouring property, No. 18 Redan Road.

Reasons

4. The appeal property is a modest terraced cottage within a terrace of six similar properties. It is located in a residential area, in the northern part of the town.
5. In common with most of the properties in the terrace it has a two storey rear projecting wing. I saw on the site visit that a number of the cottages in the row have been extended, including a single storey flat roofed extension to No. 18 and a similar extension at No. 22, with side infill extension.
6. The proposed extension would 'wrap around' the existing rear projection extending up to the side boundary with the adjoining property to the east, No. 18, extending across the whole width of the plot and to a total depth of about 7.6 m.
7. The single storey rear extension at No 18 does not extend right up to the common boundary having the same width as the two-storey rear wing. The area adjoining the boundary provides a narrow but open yard area along the side of the house with living and kitchen windows looking out over it.

8. The proposed extension would introduce a solid wall along this boundary to a height greater than that of the existing fence. Although the roof over would be mono-pitched, sloping away from the boundary, this would still add to the overall height and solid appearance of the extension. I consider that, having viewed the existing relationship between the two properties from inside No. 18, the proposed extension would significantly reduce the outlook from the rear facing windows, in particular the side kitchen window. The view from that window would be dominated by the proposed extension and result in little or no view of any sky. As such it would have an unacceptably overbearing impact.
9. The proposal would therefore be harmful to the living conditions of the occupiers of No. 18 Redan Road. It would thus conflict with DP policy DES4 which seeks to avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and land.
10. I note that other properties in the terrace have had various extensions, including ones that infill the area to the side of the rear projecting element. However, from what I could see on the site visit and from the information submitted, there are none similar to that now proposed at the appeal property.
11. I note that the proposed extension would enhance the property providing additional accommodation for the occupants. However, this would not outweigh the harm identified.
12. I therefore conclude that this appeal should be dismissed.

P Jarvis

INSPECTOR

Appeal Decision

Site visit made on 30 October 2018

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2018

Appeal Ref: APP/J1915/D/18/3209411

Clinton, Poles Lane, Thundridge, Nr Ware SG12 0SQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs M Cooper against the decision of East Herts Council.
 - The application Ref 3/18/0854/HH, dated 12 April 2018, was refused by notice dated 22 June 2018.
 - The development proposed is demolition of existing carport/garage; erection of two storey side extension and insertion of one additional dormer in front slope of existing roof.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing carport/garage; erection of two storey side extension and insertion of one additional dormer in front slope of existing roof at Clinton, Poles Lane, Thundridge, Nr Ware SG12 0SQ. The permission is granted in accordance with the terms of the application Ref 3/18/0854/HH, dated 12 April 2018, 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: NWA-17-042-LOC_E (location and block plans) and NWA-17-042-2 Revision A (floor plans and elevations).
 - 3) The materials to be used in the construction of the external surfaces of the extension and dormer window hereby permitted shall match those used in the existing building.

Procedural Matters

2. The East Herts District Plan was adopted on 23 October 2018 following the Secretary of State's withdrawal of his Holding Direction, which was issued to prevent its adoption. I note that with regard to this appeal the Council relies solely on policies from its Local Plan Second Review 2007. I understand, however, that due to adoption of the new District Plan these policies are no longer extant and, therefore, I have not relied on them for the purposes of this decision.

3. 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

4. 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;
 - 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

5. The appeal property is a detached dwelling with upper floor rooms in the roof space and dormers to front and rear located at one end of Poles Lane, a semi-rural lane that includes residential development along it.

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 indicates that previous additions, including the garage which is to be demolished as part of the current proposal, amount to a 58% increase in floorspace above the size of the original dwelling. The net result of the proposal would be a 67% increase in floorspace to the original dwelling. The appellants, however, dispute this and by their own calculation consider that the increase would be 56%. While floorspace is one measure of size, it does not take full account of the physical changes that are proposed in terms of the resultant bulk, mass and built form. It is important, therefore, to consider these effects in determining whether the proposed additions would be disproportionate, particularly in this case because of the difference of view between the parties about the floorspace increase.
8. The proposal would reduce the sideward projection of the existing garage by setting development away from the boundary. As such, the upper floor extension would cover a reduced area compared to the footprint of the existing garage. The original dwelling has a relatively long frontage and, therefore, in terms of the extent of its front elevation, the side extension would represent a limited addition to this. Moreover, it would be set down from the roof of the original dwelling and set back from the front elevation and roof slope. It would reflect the pitched roof form and dormers of the existing dwelling. As such, it would appear subservient and proportionate in relation to the original built form. Due to the lower height, set-back from the front and limited width, the extension would not add substantive bulk or mass to the host dwelling. While

it would create a building of greater width, the overall proportions of the dwelling would not be unbalanced as a result of the extension.

9. The dormers to front and rear would be of proportionate size to the front and rear roof slopes and would be of the same scale and design as the existing single dormers. These features would represent a relatively limited change to the built form both in their own right and in combination with the effects of the extension as described.
10. In summary, while the proposed extension would result in a not insignificant addition to the original building in quantitative terms, for the reasons given above, the extension and replacement dormer window would not significantly change the original built form of the appeal property. Consequently, I find that the proposal would not result in disproportionate additions over and above the size of the original building. Therefore, I conclude in accordance with the provisions of the Framework that the proposal would not be inappropriate development in the Green Belt.

Effect on openness and character and appearance

11. The effect on openness is implicitly taken into account in the exceptions included in paragraph 145 of the Framework unless there is a specific requirement to consider the actual effect on openness. Therefore, for those exceptions within paragraph 145, including c) as in this case, where the effect of the development on openness is not expressly stated as a determinative factor in gauging inappropriateness, and where the development has been found to be not inappropriate development as is the case here, there is no specific requirement to assess the impact of the development on the openness of the Green Belt.
12. Nonetheless, for the avoidance of doubt in this case I have considered the effect on openness. The extension at upper floor level would introduce development where currently none exists and, therefore, this would result in some reduction in the Green Belt's openness. However, I have found above that the proposed extension and dormer would not add substantive bulk or mass to the building. Moreover, it would not add significant additional built development to the existing self-contained residential curtilage of the appeal property, which is not highly visible or prominent from the surrounding area. As such, and on balance, there would be no material harm to the Green Belt's openness as a result of additional development of the type proposed.

Other Matters

13. I have had regard to the effect of the additional dormer to the existing front roof slope, which the Council contends would harmfully affect the host dwelling's character and appearance. The additional dormer would match those existing and the one proposed as part of the side extension. Moreover, with the extension in place, the paired dormers in the middle of the roof slope with single dormers either side would provide some balance and symmetry to the property's front roof slope. As such, the proposed additional dormer would not be incongruous or otherwise harmful to the host dwelling's character and appearance.

Overall Conclusion

14. I have found above that the proposal would not be inappropriate development in the Green Belt and that there would be no harmful effects on the openness of the Green Belt. Consequently, there is no conflict with the Framework and so the appeal should succeed.

Conditions

15. Of the Council's suggested conditions I have imposed the standard time condition and, to ensure the proper implementation of development in accordance with the submitted details, one requiring development to be carried out in accordance with the approved plans. I agree also that a condition requiring the external materials used to match those of the existing building is needed in the interests of the appearance of the host dwelling and wider area.

J Bell-Williamson

INSPECTOR



Appeal Decision

Site visit made on 17 October 2018

by **P B Jarvis DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 November 2018

Appeal Ref: APP/J1915/D/18/3208515 5 Century Road, Ware SG12 9DY.

- 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 Alastair Pert against the decision of East Herts District Council.
 - The application Ref 3/18/0903/HH, dated 19 April 2018, was refused by notice dated 13 June 2018.
 - The development proposed is a front porch.
-

Procedural Matter

1. Since the appeal was submitted it has been confirmed that the East Herts District Plan 2011 to 2033 (2018) (DP) has been adopted. I therefore refer to the policies of that plan in my decision below.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is the effect on the Ware Conservation Area.

Reasons

4. The appeal property is a modest terraced cottage within a row of six properties. They are simple in form with painted rendered elevations, though number 1 is not painted, and pitched slate roofs.
5. The site lies within the Ware Conservation Area which within the immediate locality of the site is predominantly residential in character consisting of a number of short terraces of traditional properties. The Conservation Area Appraisal highlights the uniformity and simplicity of the row of terraces.
6. Four of the cottages have the original small canopy over the front door. No. 6 has no canopy and the canopy at number 1 has been replaced by a brick built porch with hipped roof. Thus the majority of the front elevation of the row of cottages is as originally built.
7. The proposal, whilst of similar design to that at no. 1, would in my view, appear inappropriate and disproportionately large in scale when viewed in the context of the terrace. In my view the simple original form and appearance of

the cottages would be detrimentally affected by what would appear as an overly large and dominant addition, prominently located on the front elevation of the terrace.

8. It is my view that the proposal would be harmful to the character and appearance of the Ware Conservation Area. It would thus fail to comply with DP policies HA1, HA4, DES4 and HOU11 which seek to preserve or enhance the special interest, character and appearance of the conservation area and a high standard of design and layout, to promote local distinctiveness, and that development should be of a size, scale, mass, form, siting, design and materials that are appropriate to the character, appearance and setting of the existing dwelling and surrounding area.
9. It would also fail to satisfy policy in the National Planning Policy Framework which states, amongst other things, that account should be taken of the desirability of sustaining and enhancing the significance of heritage assets and making a positive contribution to local character and distinctiveness. Whilst the harm arising in this regard would be less than substantial, that harm is not, in my view, outweighed by public benefits.
10. In addition, it would in my view fail to meet the statutory duty to have regard to the desirability of preserving and enhancing the character or appearance of the conservation area. I consider this results in an adverse impact of considerable negative weight.
11. Whilst there is an existing porch at No. 1, I do not regard this as setting any sort of precedent. In my view it is not a sympathetic addition and detracts from the modest size and form of that dwelling and the wider terrace and is thus not a form of addition that I consider should be repeated.
12. There is also a porch under construction on a terrace in the adjoining Coronation Road. The appellant indicates that this is being constructed under permitted development rights. However, the appellant also confirms that such permitted development rights do not apply to the appeal property, therefore they cannot be relied on in this case as a fall-back.
13. The appellant contends that the proposed porch would enhance the property by providing additional space and improving energy efficiency. I acknowledge that this would provide some benefits but overall, I conclude that there are no material considerations that outweigh the harm arising as set out above.
14. I therefore conclude that this appeal should be dismissed.

P Jarvis

INSPECTOR

Appeal Decision

Site visit made on 30 October 2018

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2018

Appeal Ref: APP/J1915/D/18/3209061
2A Ashdene Road, Bayford SG13 8PX

- 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 T Cunnane against the decision of East Herts Council.
 - The application Ref 3/18/0912/HH, dated 19 April 2018, was refused by notice dated 11 June 2018.
 - The development proposed is alterations to rear roof.
-

Decision

1. The appeal is allowed and planning permission is granted for alterations to rear roof at 2A Ashdene Road, Bayford SG13 8PX. The permission is granted in accordance with the terms of the application Ref 3/18/0912/HH, dated 19 April 2018, 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 alterations hereby permitted shall be carried out in accordance with the following approved plans: location plan, block plan, 2886/3 (floor plan) and 2886/4 (floor plan and elevations).
 - 3) The materials to be used in the construction of the external surfaces of the alterations hereby permitted shall match those used in the existing building.

Procedural Matters

2. The East Herts District Plan was adopted on 23 October 2018 following the Secretary of State's withdrawal of his Holding Direction, which was issued to prevent its adoption. I note that with regard to this appeal the Council relies solely on policies from its Local Plan Second Review 2007. I understand, however, that due to adoption of the new District Plan these policies are no longer extant and, therefore, I have not relied on them for the purposes of this decision.
3. 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 Issue

4. The main issue is the effect of the proposed alterations on the character and appearance of the host dwelling and surrounding area.

Reasons

5. The appeal property is a detached chalet bungalow with accommodation in the roof space located in the hamlet of Bayford and in a residential road of mixed property types. The appeal site is within the Green Belt.
6. The existing dwelling has four matching dormers to both the front and rear roof slopes. The proposal is to expand internally the spaces between the existing four windows through a pitched roof close to the main roof ridge and vertical tile-hung frontage, set back from the front of the existing windows.
7. While the proposal would add some bulk to the roof form, the facing materials of tiles matching the roof itself and the fact that no new windows would be introduced, would help to mitigate the extent of the infill and so reduce its visual effects. Furthermore, the host dwelling has a sufficiently large rear roof that the alterations would not unbalance its proportions or otherwise appear incongruous.
8. The changes proposed would not be readily seen from the surrounding area. It is not possible to see the rear elevation from the public realm and the principal views would be from properties directly opposite to the rear. However, these are relatively well-separated from the rear of the appeal property with garden boundary planting in between that would help screen views of the dwelling. As such, the extended roof would not be prominent or intrusive from views in the surrounding area. While the Council refers to a previous unsuccessful appeal for a flat-roofed dormer, I note that this was to the front of the property in a more prominent position than is the case here.
9. Therefore, for these reasons, I conclude that the proposed roof alterations would not result in material harm to the character and appearance of the host dwelling and surrounding area. Consequently, the appeal should succeed.

Conditions

10. Of the Council's suggested conditions I have imposed the standard time condition and, to ensure the proper implementation of the proposal, one requiring development to be carried out in accordance with the approved plans. I agree also that a condition requiring the external materials used to match those of the existing building is needed in the interests of the appearance of the host dwelling and wider area.

J Bell-Williamson

INSPECTOR



Appeal Decision

Site visit made on 17 October 2018

by **P B Jarvis DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 November 2018

Appeal Ref: APP/J1915/D/18/3209062

17 Burnham Green Road, Datchworth, Knebworth SG3 6SE.

- 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 D Feldman against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0917, dated 20 April 2018, was refused by notice dated 3 July 2018.
 - The development proposed is new porch, conversion of garage into habitable space and the insertion of 3 no. rooflights.
-

Procedural Matter

1. Since the appeal was submitted it has been confirmed that the East Herts District Plan 2011 to 2033 (2018) (DP) has been adopted. I therefore refer to the policies of that plan in my decision below.

Decision

2. The appeal is dismissed insofar as it relates to the erection of the porch.
3. The appeal is allowed and planning permission is granted for the conversion of garage into habitable space and the insertion of 3 no. rooflights, at 17 Burnham Green Road, Datchworth, Knebworth SG3 6SE, in accordance with the terms of application ref. 3/18/0917 dated 20 April 2018, subject to the following conditions:
 - 1) The development hereby permitted, which for the avoidance of doubt is the conversion of garage to habitable space and insertion of 3 no. rooflights, shall begin not later than 3 years from the date of this permission.
 - 2) This permission shall relate to the following plans: 4138/OS A (Location and Site Plan) 4138/01-1 (Floor Plans - Existing) 4138/01-2 (Elevations - Existing) 4138/02-1F (Floor Plans - Proposed) 4138-02-2F (Elevations - Proposed).
 - 3) The materials to be used in the external surfaces of the development hereby permitted shall match those used in the host dwelling.

Main Issues

4. The main issues are:

- a) Whether having regard to development plan policy and national policy in the National Planning Policy Framework (the Framework) the proposal comprises inappropriate development in the Green Belt
- b) The effect on Green Belt openness
- c) Whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations

Reasons

5. The appeal property is a detached chalet style property set within a row of detached dwellings of varying size and appearance. The site is located in a rural location but within a small hamlet. The boundaries of the appeal site are marked by relatively high hedges particularly along the front, roadside boundary such that only the upper part of the property is readily seen.

Whether inappropriate development

6. The site lies in the Green Belt wherein the construction of new buildings is to be regarded as inappropriate development subject to the exceptions which are set out in paragraph 145 of the Framework. That includes 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. DP Policy GBR1 states that applications will be considered in line with the provisions of the Framework.
7. The dwelling has been previously extended a number of times which has resulted in a more than doubling of the floorspace. The proposed porch would therefore add further to these disproportionate additions. As such, it amounts to inappropriate development in the Green Belt which is, by definition, harmful to it and should not be approved except in very special circumstances.
8. However, the conversion of the garage would not result in any such disproportionate additions and would thus not comprise inappropriate development.

Impact on Green Belt openness

9. The porch would not be of an excessive size and would be of a design to match the host dwelling with a mono-pitch around the edge of a central flat roof. It would be set back from the front elevation of the existing garage though would extend to the front of the existing front door and secondary front elevation. However, it in public views from the main road, it would be effectively 'hidden' by the projecting front garage element and otherwise screened by the boundary hedge. Given these factors and that the dwelling itself is set within the row of similar detached dwellings, I consider that the openness of the Green Belt would be unaffected.

Whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations

10. The appellant contends that the proposed porch would only have a modest effect on the site and surrounding village with no impact on openness as a significant proportion of the site would remain undeveloped. In addition, the proposal would improve the residential amenity of the current and future occupants. However, I give little weight to these considerations as the impact

on the openness of the site and surroundings has already been considered to have a neutral effect. The enhancement to residential amenity would be of limited weight as this could be argued in most cases of residential extensions.

11. In my view the substantial harm that arises as a result of the inappropriate development would not be clearly outweighed by the above considerations.
12. However, as the garage conversion does not amount to inappropriate development and is otherwise acceptable, I intend to issue a split decision. In terms of conditions, in addition to referring to the approved plans in the interests of proper planning, there is also a need to require matching materials in the interests of the character and appearance of the area and visual amenity.
13. I therefore conclude that this appeal should be allowed in part and dismissed in part.

P Jarvis

INSPECTOR



Appeal Decision

Site visit made on 2 October 2018

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

an Inspector appointed by the Secretary of State

Decision date: 23 November 2018

Appeal Ref: APP/J1915/W/18/3204288

Stafford House, 1 Kitcheners Lane, Walkern SG2 7PF

- 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 Ronnie Stafford against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/2770/FUL, dated 29 November 2017, was refused by notice dated 24 January 2018.
 - The development proposed is the demolition of existing rear and side extensions followed by construction of basement with rear light-well. Construction of new 3-bedroom dwelling at the rear of the existing dwelling with basement, ground and first floor levels.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing rear and side extensions followed by construction of basement with rear light-well. Construction of new 3-bedroom dwelling at the rear of the existing dwelling with basement, ground and first floor levels at Stafford House, 1 Kitcheners Lane, Walkern SG2 7PF in accordance with the terms of the application, Ref 3/17/2770/FUL, dated 29 November 2017, subject to the conditions contained in the attached Schedule.

Preliminary and Procedural Matters

2. Since the Council made its decision the revised National Planning Policy Framework (the Framework) has been published. 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. During the duration of the appeal process the Secretary of State issued a holding direction on 11 September 2018 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 East Herts Local Plan. The effect of the holding direction was that whilst it remained in force no weight could be given to the emerging plan. The main parties were offered an opportunity to comment on the implications of the holding direction for this appeal.
4. On 12 October 2018 the Secretary of State withdrew the holding direction and the Council subsequently adopted the East Herts District Plan on 23 October 2018. Appeals must be determined in accordance with the relevant adopted policies at the time of their decision. This appeal has therefore been

determined in line with the policies contained within the East Herts District Plan (DP), adopted 2018.

5. The Council's appeal response¹ identified a number of policies² of the emerging District Plan that the appeal proposal failed to comply with. However, no commentary or explanation was provided to indicate what the conflicts were. Consequently the relevancy or otherwise of the suggested policies will be part of my determination this appeal.
6. The Council amended the description of development from that contained within the planning application. Although I note that the appellant has used the Council's description on the appeal form, I have no confirmation that the appellant agreed to the change. Whilst the Council's description contains reference to openings and fenestration, as the plans illustrate these features it is not necessary to specifically make reference to them within the description of development. I have therefore used the original description of development in my formal decision above.
7. The appeal submission contains a full set of revised plans which were not part of the original planning application. The 'Planning Appeals: Procedural Guide' makes it clear that 'the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought'.
8. I have considered whether it would be appropriate to take the revised plans into account in this case. Following the principles established by the Courts in *Wheatcroft*³, the test is whether to do so would deprive those who should have been consulted on the changed development, the opportunity to make representations. The revised plans illustrate the introduction of a car lift to provide additional parking to the existing dwelling, which represents a material change to the proposal. I cannot be assured that all those consulted would not be prejudiced by a revised scheme and as such I cannot proceed on that basis. I have therefore determined the appeal on the basis of the original set of plans upon which the Council made its decision.

Main Issues

9. The main issues in this appeal are the effect of the proposal on:
 - the character and appearance of site and its surroundings, including whether it would preserve or enhance the Walkern Conservation Area (WCA); and
 - the living conditions of the occupiers of the host dwelling, with particular regard to amenity space and parking.

Reasons

Character and appearance

10. The appeal site lies within the approximate centre of the linear settlement of Walkern to the rear of High Street. Walkern is a Group 1 Village in the adopted

¹ Dated 4 September 2018

² Policies INT1, GBR2, VILL1, HOU11, DES2, DES4, HA3, HA4, NE3, TR3 and TRA2

³ *Bernard Wheatcroft Ltd v Secretary of State for the Environment* [JPL 1982 p37]

DP where at least a 10% increase in housing stock is expected within the DP period under Policy VILL1. It is within the Walkern Conservation Area (WCA) which extends along High Street taking some of the associated side roads and lanes, including Kitcheners Lane. The WCA is characterised by a mix of mainly traditional dwellings with a range of attractive traditional detailing and materials. The buildings are generally arranged along the road frontages, many with outbuildings or other structures to the rear giving a general sense of development depth. Along High Street the range of views to the wider agricultural landscape is noticeable. In my opinion the significance of the WCA is derived in part from the traditional architectural detailing and layout of buildings within Walkern and its setting in the rural landscape.

11. The existing dwelling is relatively plain and does not contain any notable features of other dwellings within the wider WCA. The public views are limited to those possible from the end of Kitcheners Lane where it meets High Street. The existing vegetation within the appeal site presently limit any views to the open countryside. Consequently, I consider the existing dwelling makes a neutral contribution to the WCA. In reaching this view I have had regard to the statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
12. The appeal proposal comprises 2 elements: works to the existing dwelling and the construction of a new dwelling. The existing 2-storey detached dwelling comprises living accommodation over 4 floors with a total of 7 bedrooms illustrated as being within the basement, first floor and roof space. The proposed internal remodelling of space would result in a smaller 2-bedroom dwelling. The Council has raised no concerns regarding the proposed internal reconfiguration of the existing dwelling. I see no reason to disagree with the Council on this point.
13. Externally the existing dwelling would be visually changed with the demolition of 2 single storey extensions, presently forming a kitchen and bathroom respectively together with re-arranged fenestration and composite timber weatherboard. The proposal would completely change the appearance of the existing dwelling with I note that the appellant has drawn design inspiration from another housing development within Walkern. The incorporation of some traditional decorative features therefore takes the opportunity to visually improve the contribution of the existing dwelling to the WCA.
14. The proposed new 3-bedroom detached dwelling would be sited to the rear of the re-modelled existing dwelling. The Council is concerned that the basement and garden curtilage of the new dwelling would extend beyond the village boundary. However, given that the current garden area for the existing dwelling already contains the usual domestic paraphernalia, a variety of outbuildings, including an outdoor pool and fish ponds, much of which are already beyond the village boundary, I do not share the Council's concern on this point.
15. I note the Council's concerns that the new dwelling would not be subservient to the existing dwelling. However, I have no evidence that this is a policy requirement for the new dwelling. Whilst it would result in additional built development to the edge of the current village boundary, the overall proposal would have a visual appearance of a pair of barns and as such would not be harmful in this location.

16. Consequently, the appeal proposal would not harm the character and appearance of the site and its surroundings. I find that the opportunity to remodel the existing dwelling has been taken to enable it to enhance the WCA and the additional dwelling presents no harm such that it therefore preserves the character and appearance of the WCA. The proposal therefore accords with Policies INT1, VILL1, HOU11, DES4, HA1 and HA4 of the DP. These policies seek, amongst other things, that appropriate housing development is permitted in Group 1 Villages where it meets a high standard of design and layout and respects the designated historic asset and built form of the WCA.

Living conditions

17. The proposed new layout for the existing dwelling would incorporate approximately 36 square metres of rear garden space. The Council's view is that this would be insufficient for the occupiers. I have not been presented with any external amenity space standards set out in the DP or any relevant Supplement Planning Document. Therefore it is a matter of planning judgement as to whether the proposal is acceptable.
18. The proposed remodelled dwelling would be smaller and reduced to only 2 bedrooms therefore the external amenity space should be proportionate. It is notable that same 47 square metres is indicated for car parking to the side of the dwelling. The total provision of external space surrounding the remodelled dwelling would therefore be approximately 83 square metres. Whilst the proposed garden area would be relatively limited in depth, it would extend beyond the width of the dwelling itself. Given the reduced size of the remodelled dwelling I find the living conditions of the occupiers of the host dwelling would be acceptable with particular regard to amenity space.
19. The Officer Report indicates that 2 parking spaces are required for a 2-bedroom dwelling. The Officer Report also refers to the provision of a garage for the existing dwelling; however I understand that this related to a previous scheme and not the one which is before me. Given that 47 square metres is available for car parking at the side of the remodelled existing dwelling I consider that this would be sufficient to park 2 cars that belong to the same household. The on-site parking therefore complies with the Council's vehicle parking standards.
20. I acknowledge that the vehicles would need to reverse in or out of the space. However, Kitcheners Lane would be regarded as being 'lightly trafficked' and is similar in nature of traffic movements to a private drive. I note that the submitted Highway Report⁴ confirms my view in this regard. Consequently, I do not find that the proposed parking arrangement would lead to any highway safety concerns.
21. Accordingly the appeal proposal would provide satisfactory living conditions of the occupiers of the host dwelling, with particular regard to amenity space and parking. There would be no conflict with Policy DES4 of the DP which seeks, amongst other things, for development proposals to make best possible use of land and avoid significant impact on the amenity of occupiers. There would also be no conflict with Policy TRA2 and TRA3 relating to satisfactory highway and parking.

⁴ VTC (Highway & Transportation Consultants) Highway Report, dated 26 October 2017

Conditions

22. The Council has not suggested any planning conditions. However both main parties have been given the opportunity to provide comments on my intended conditions. I have included the standard conditions relating to the time limit for implementation and plans which are necessary to provide certainty and define the development.
23. Having also considered the consultee responses received to the planning application, I do not consider that there is sufficient evidence to suggest that a condition regarding the investigation and remediation of contaminated land is reasonable or necessary. I do however consider that a condition limiting the hours of construction works is reasonable given the proximity of other residential properties. The Highway Authority has requested a condition that the parking spaces are provided prior to occupation of the dwellings. Such a condition would be reasonable and necessary. I do not however agree that a further condition is necessary to ensure that vehicles leaving the development site during construction do not deposit mud or other debris on the highway. Such a condition would impose a disproportionate burden on a development of this scale and in any event the Highway Authority has other legislation at its disposal to prevent mud or other debris being deposited on the highway network.
24. The County Historic Environment Advisor indicates that the appeal site lies within an Area of Archaeological Significance. Furthermore, the consultation response indicates that archaeological investigations carried out prior to a housing development less than 100 metres to the south of the appeal site revealed evidence of early Roman occupation. The Framework advises at paragraph 128 that where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, an appropriate desk based assessment and, where necessary, a field evaluation should be submitted. In this case there is no such assessment and the site specific archaeological potential has not been determined. Nonetheless I note that the Council has no concerns regarding archaeological considerations. Having regard to the evidence before me and by Policy HA3 of the DP this matter can be satisfactorily addressed through a condition requiring a scheme for archaeological investigation is necessary and reasonable.

Conclusion

25. For the reasons set out above, having regard to all matters raised, the appeal should be allowed and planning permission granted subject to the conditions contained within the attached Schedule.

Rachael A Bust

INSPECTOR

Schedule of Conditions (5 in total)

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Existing Dwelling

779RS_FUL:SH1 01 (Location Plan and Existing Block Plan), dated Nov 2017

779RS_FUL:SH2 01 (Existing Site Plan), dated Nov 2017

779RS_FUL:SH3 01 (Existing Basement Floor Plan), dated Nov 2017

779RS_FUL:SH4 01 (Existing Ground Floor Plan), dated Nov 2017

779RS_FUL:SH5 01 (Existing First Floor Plan), dated Nov 2017

779RS_FUL:SH6 01 (Existing Loft Plan), dated Nov 2017

779RS_FUL:SH7 01 (Existing Roof Plan), dated Nov 2017

779RS_FUL:SH8 01 (Existing Front & Rear Elevation), dated Nov 2017

779RS_FUL:SH9 01 (Existing Side Elevations & Section A-A), dated Nov 2017

779RS_FUL:SH10 01 (Proposed Block Plan), dated Nov 2017

779RS_FUL:SH11 01 (Proposed Site Plan), dated Nov 2017

779RS_FUL:SH12 01 (Proposed Basement Floor Plan), dated Nov 2017

779RS_FUL:SH13 01 (Proposed Ground Floor Plan), dated Nov 2017

779RS_FUL:SH14 01 (Proposed First Floor Plan), dated Nov 2017

779RS_FUL:SH15 01 (Proposed Roof Plan), dated Nov 2017

779RS_FUL:SH16 01 (Proposed Front & Rear Elevation), dated Nov 2017

779RS_FUL:SH17 01 (Proposed Side Elevations & Section B-B), dated Nov 2017

New Dwelling

779RS_FUL:SH18 01 (Proposed Basement Floor Plan), dated Nov 2017

779RS_FUL:SH19 01 (Proposed Ground Floor Plan), dated Nov 2017

779RS_FUL:SH20 01 (Proposed First Floor Plan), dated Nov 2017

779RS_FUL:SH21 01 (Proposed Roof Plan), dated Nov 2017

779RS_FUL:SH22 01 (Proposed Front & Side Elevation), dated Nov 2017

779RS_FUL:SH23 01 (Proposed Rear & Side Elevation), dated Nov 2017

779RS_FUL:SH24 01 (Proposed Section A-A), dated Nov 2017

779RS_FUL:SH25 01 (Proposed Street Elevations), dated Nov 2017

779RS_FUL:SH26 01 (3D Visualization), dated Nov 2017

779RS_FUL:SH27 01 (3D Visualization), dated Nov 2017

779RS_FUL:SH28 01 (3D Visualization), dated Nov 2017

779RS_FUL:SH29 01 (Shadow Analysis – March), dated Nov 2017

779RS_FUL:SH30 01 (Shadow Analysis – June), dated Nov 2017

779RS_FUL:SH31 01 (Shadow Analysis – September), dated Nov 2017

779RS_FUL:SH32 01 (Shadow Analysis – December), dated Nov 2017

- 3) Demolition and construction works shall take place only between 0730 and 1830 on Monday to Friday and 0730 and 1300 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 4) The new 3-bedroom dwelling shall not be occupied until all car parking provision has been laid out as shown on drawing number 779RS_FUL:SH11 01 and that all of the identified parking space shall thereafter be kept available at all times for the parking of vehicles.
- 5) No development other than the demolition of existing rear and side extensions hereby approved shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of archaeological significance and recommendations if appropriate for:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

End of Schedule



Appeal Decision

Site visit made on 3 October 2018

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

an Inspector appointed by the Secretary of State

Decision date: 16 November 2018

Appeal Ref: APP/J1915/W/18/3199438

The Cock, Ginns Road, Stocking Pelham SG9 0HZ

- 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 planning permission.
 - The appeal is made by Topco Stocking Pelham Ltd against East Hertfordshire District Council.
 - The application Ref 3/2017/2792/FUL is dated 28 November 2017.
 - The development proposed was originally described as "Design and access statement for the change of use from a vacant public house (A4) to four residential dwellings (C3) and a shop (A1)".
-

Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The appeal was submitted on 2 April 2018 as a result of the Council failing to make a decision within the statutory 8-week period. The Council has indicated that in its view the appeal should be dismissed.
3. Since the Council made its decision the revised National Planning Policy Framework (the Framework) has been published. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal.
4. During the appeal process the emerging East Herts District Plan (DP) was progressing and parties had opportunities to provide their views on the relevance of emerging policies. On 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 DP. The effect of the holding direction was that whilst it remained in force no weight could be given to the emerging plan. The main parties were offered an opportunity to comment on the implications of the holding direction for this appeal.
5. On 12 October 2018 the Secretary of State withdrew the holding direction and the Council subsequently adopted the DP on 23 October 2018. All applications and appeals must be determined in accordance with the relevant adopted policies at the time of their decision; consequently this appeal has been determined in line with the policies contained within the DP, adopted 2018.

Main Issue

6. The main issue is whether the appeal proposal would be acceptable having regard to planning policies concerning community facilities.

Reasons

7. The appeal site was previously occupied by a public house that burnt down in 2008. Planning permission was granted in 2012 for the erection of a public house and 2 dwellings on and adjacent to the appeal site. The Council's appeal statement indicates that the 2 dwellings were enabling development to assist with the re-opening of the public house. The planning permission was subject to a Section 106 agreement. This prevented more than 1 dwelling being occupied until the public house had been constructed and put into a state capable of being granted a licence under the Licensing Act 2003. It also required the public house to be put into an operational state not less than 12 months after the date of the occupation of first dwelling on the site. The Council's appeal statement confirms that the 2 dwellings have been provided, one of which is indicated to have been sold and the other being rented.
8. At the time of my site visit I saw the 2 dwellings, both of which appeared to be occupied. I also observed that the public house had been constructed in shell form with minimal internal fittings. Whilst the public house has not yet been fitted out, it is clearly capable of being brought into such use. The unfinished nature of the internal areas offers flexibility for any future operator to have the building laid out to their specific requirements.
9. It is understood that a premises licence was obtained in July 2015. The Council resolved in 2015 to grant planning permission for a series of proposals including the conversion of the first floor to include 6 letting rooms, however the relevant legal agreements have not been entered into to allow these permissions to be issued. The site has been registered as an Asset of Community Value.
10. My attention has been drawn to a recent appeal¹ on this site for the change of use from a vacant public house (A4) to a 5-bedroom residential dwelling (C3). I note that the appeal was dismissed. Given that this recent appeal relates to a similar proposal to that before me, I give the recent appeal decision significant weight. All applications and appeals must be determined on their own merits and I confirm that this is what I have done.

Community services and facilities

11. The current appeal differs from the recently determined appeal in that a shop (Use Class A1) is now proposed alongside the provision of 4 dwellings. As such the appellant is now proposing a form of alternative provision of a community facility. The public house use would however cease.
12. This appeal has generated considerable public interest. Having regard to the amount of representations from interested parties, it can be judged that the previous public house on the appeal site appeared to have been much used and valued. Consequently I have no reason to doubt that it provided an important community facility. The lack of this facility in the past 10 or so years is identified in representations as having been detrimental to the community. It

¹ Appeal reference: APP/J1915/W/17/3189542, dated 9 July 2018

- seems clear to me from this evidence that it was this public house in particular that was important to the local community. Other public houses in the wider area have not fulfilled the same role. From the evidence before me I agree with the previous Inspector that it seems reasonable to conclude that the fire, rather than any issues of viability, was the cause of the closure.
13. Representations from interested parties also state significant value would be placed on a new public house. As well as representations from residents of Stocking Pelham I note the support from local businesses and residents of neighbouring settlements. In the absence of any substantive evidence to the contrary I have no reason to question the comments of interested parties regarding the past or future use of the public house.
 14. I consider that the evidence of the use of the last public house on the appeal site together with the wide ranging support for a new public house demonstrates that it has the potential to be an important and valuable community facility. Although not presently operational, by virtue of the 2 dwellings being occupied, the public house should have been brought into operation. Therefore I do consider that the appeal proposal would result in the effective loss of a potentially valued community facility to the residents of Stocking Pelham and the surrounding area.
 15. I note that the site owners chose to implement the 2012 permission and have benefitted from securing occupation of the 2 dwellings but have not fitted out and provided the public house. The appellant has not presented me with any substantive and up to date evidence regarding the viability of a public house on the appeal site. Consequently, without such evidence I am not persuaded by the appellant's suggestion that the public house is not viable and as such the case for an alternative development in the form of residential use has not been demonstrated. No cogent evidence has been provided as to why the subsequent enabling measures granted in 2015 relating to letting rooms in the public house has not been pursued.
 16. I note various offers to purchase the public house have been made at different times. However, no detailed evidence has been presented by the appellant regarding their efforts to market and sell. The fact that the site has not been sold could be attributed to a range of factors, not least that the offers made have not met with the seller's expectations. This in itself does not automatically lead to the conclusion that the public house is redundant or financially unviable.
 17. The appeal building has been registered as an Asset of Community Value (ACV). From the Parish Council's representation to this appeal I am satisfied that there is a local commitment to securing the future of the public house, including the preparation of a business plan which will support funding applications and allow a formal offer for the freehold to be made. The ACV carries significant weight in my determination of this appeal since it provides further confirmation regarding the community's desire in respect of the public house.
 18. Even if I were to accept that a public house was not a viable use for the appeal site, Policy CFLR8 of the DP requires an assessment to be undertaken which clearly shows that the facility is no longer needed in its current form. No substantive evidence has been presented to me to demonstrate that the public house would be no longer needed. Policy CFLR8 of DP does allow for the loss

of community facilities where they would be replaced by enhanced provision in terms of quantity and/or quality in a suitable location. This is not applicable in this case as the appeal proposal does not result in any alternative provision of a public house. Accordingly, the appellant relies upon the final criteria of Policy CFLR8 of the DP, which allows for development of an alternative community facility, the need for which clearly outweighs the loss.

19. The proposed shop would provide a stated 75.5 square metres of trading area. It must be acknowledged that this would provide a new community facility as Stocking Pelham has no current shop. In principle, this lends some support to the appeal proposal as an alternative community facility. However, to meet the policy requirements the need for a shop must clearly outweigh the loss of a public house.
20. I am mindful that no cogent evidence has been presented to me that the appellant has sought to engage with potential operators for the proposed shop which would enable me to be confident that this was a genuine proposal. Moreover, the appeal is not supported by a business plan or other evidence to demonstrate that the proposed shop would be viable based on indicated floorspace and likely catchment area. On the basis of the evidence before me I cannot be satisfied that the provision of a shop as an alternative community facility clearly outweighs the loss of the public house.
21. Furthermore, responses from interested parties are very clear that there is no local demand for a shop, indeed representations from local businesses at Pelham Hall Farm raised concerns regarding the potential impact on their existing businesses providing meat, dairy and animal feeds. I have been referred to the shop at Clavering, approximately 3 miles away from Stocking Pelham. I saw it on my site visit and found it to be a much larger facility than that proposed within the appeal scheme and it was open every day of the week.
22. The presence of the shop at Clavering must cast some doubt on the potential viability of the proposed shop for Stocking Pelham. As the appeal proposal is put forward as being a suitable alternative facility, in my judgement it is necessary for the appellant to justify the scheme with some demonstration that it would be needed, viable and have a reasonable prospect of being delivered. If it were not to be viable then the floorspace available for community use is likely to be too small to be successfully put to a further alternative community facility use.
23. Whilst a shop would provide a community facility which would provide a service; it is fundamentally different to that of a public house which is capable of not only providing a service, but also a social meeting space. Consequently, on balance I am not persuaded that the proposed shop would be an acceptable alternative community facility to the public house. It would therefore substantially reduce the scale of community facility provision for Stocking Pelham.
24. Taking all matters into account, the appellants have not demonstrated that the appeal proposal would be acceptable, having regard to planning policies concerning community facilities. It would conflict with Policy CFLR8 of the DP, which seeks to protect local services and community facilities and ensure that any loss would be replaced by either enhanced provision or an alternative community facility which clearly outweighs the loss. It would also conflict with

the Framework insofar as it relates to guarding against the unnecessary loss of valued community facilities.

Other matters

25. I note the general suitability of the appeal site's location for residential development and the ability for the part conversion of the public house to residential units and the absence of any other adverse impacts. However, these matters do not significantly and demonstrably outweigh the substantial harm I have identified.

Conclusion

26. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

Rachael A Bust

INSPECTOR



Appeal Decision

Site visit made on 28 August 2018

by **R Sabu BA(Hons), BArch, MA, PgDip ARB**

an Inspector appointed by the Secretary of State

Decision date: 21 November 2018

Appeal Ref: APP/J1915/W/18/3201886

Land adjacent to Natkriskee, Hare Street, Buntingford SG9 0DX

- 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 Samantha Warren against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/2877/FUL, dated 13 December 2017, was refused by notice dated 28 February 2018.
 - The development proposed is two 4 bedroom semi-detached houses with external garage and landscaping.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. I note that the East Herts District Plan October 2018 (LP) has been adopted since the Council's decision notice was issued. I have therefore made my determination having regard to the LP rather than the former development plan policies cited in the Council's reasons for refusal of planning permission.

Main Issue

3. The main issue is whether or not the proposed development would be in a suitable location taking into account the Council's strategic housing policies and the proximity of services.

Reasons

4. The appeal site lies about 1 mile north of the settlement of Hare Street. In planning terms it is within the open countryside and in an area designated within the LP as a Rural Area Beyond the Greenbelt (RABGB).
5. The village of Hare Street has a small number of services including tea rooms and a public house. However these services are limited to the point that residents of the proposed houses would be likely to regularly travel outside the village to access services and to use private vehicles to do so. On this basis the appeal site is not in a sustainable location in terms of access to facilities.
6. Policies DPS1, DPS3 and GBR2 of the LP set out the approach taken by the Council to concentrate development within the existing towns. They permit certain types of development provided that they are compatible with the character and appearance of the rural area.

7. Of these the only criterion relevant to the proposed development would be criterion (e) of Policy GBR2 which allows limited infill development of previously developed sites in sustainable locations, where appropriate to the character, appearance and setting of the site and/or surrounding area. However, the definition of previously developed land as cited in the Framework excludes land that was previously developed where the remains of the permanent structure or fixed surface structure have blended into the landscape. Having regard to the evidence and having visited the site, I have found no reason to believe that there are any such visible remains. On this basis the site is not previously developed land such that the proposed development would not meet LP criterion (e) of Policy GBR2.
8. As the proposed development would not comply with criterion (e) or indeed any of the other criteria outlined in Policy GBR2 it conflicts with this Policy and Policies DPS1, DPS3 of the LP.
9. Policy VILL2 of the LP sets out that limited infill development would be permitted in Group 2 Villages. However, the proposed scheme would not constitute infill development as the location is some distance from the main group of buildings. Consequently, it would not accord with this Policy.
10. Policies HOU1 and HOU2 of the LP seek to ensure that new housing is accessible to, and meets the needs and aspirations of, the District's communities. As outlined above, the proposed development would not be in a sustainable location such that it would not accord with these Policies.
11. Policies DES2, DES3 and DES4 of the LP place importance on good design in achieving high quality places. The Council has not objected to the design of the proposed development and from the evidence before me I see no reason to disagree, such that I find no conflict with these Policies.
12. Policies TRA1, TRA2 and TRA3 of the LP seek to promote sustainable transport. Although the Local Highways Authority did not object to the proposals, since the location of the proposed development would not be enable sustainable transport, the scheme would not accord with these policies.
13. While Policies WAT4 and WAT5 of the LP, which seek sustainable management of water, are cited in the Council's Officer's Report, no explanation of the alleged policy conflict has been identified. From the information before me I see no reason why the proposed development would conflict with these Policies.
14. I acknowledge the appellant's reference to the case law regarding paragraph 55 of the former National Planning Policy Framework (the NPPF). The NPPF was revised in July 2018 and on my reading the closest equivalent of paragraph 55 are paragraphs 78 and 79 in the revised version. That judgment remains relevant in my view as the revised text of the NPPF is similar to the previous version. In any event, the Council has not cited paragraph 55 in its reason for refusal, and due to the close proximity of adjacent properties and I do not consider the appeal site to be in an isolated location in the terms of the NPPF. Therefore the proposed development does not conflict with its paragraphs 78 and 79, but would nonetheless conflict with the Council's adopted strategy for the location of new development contrary to the development plan, as outlined above.
15. The appeal scheme would offer economic and social benefits as identified by the appellant. In addition to the delivery of 2 new homes, these include those associated with the construction of the development and the longer term local

spending resulting from more residents. However, given the modest scale of development proposed, any such benefits attract only limited weight and do not outweigh the identified harm and development plan conflict.

Other Matters

16. I acknowledge the comment regarding a covenant in place restricting the proposed access from the neighbouring property, Natkriskee, to maintenance access only. This is not a planning matter and has not had any bearing on my decision.

Conclusion

17. For the reasons given I conclude that the proposed development would not be situated in a sustainable location, would conflict with the development plan and should be dismissed.

R Sabu

INSPECTOR



Appeal Decision

Site visit made on 4 September 2018

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2018

Appeal Ref: APP/J1915/W/18/3202574 20 Presdales Drive, Ware SG12 9NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Ward against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/2961/FUL, dated 21 December 2017, was refused by notice dated 22 February 2018.
 - The development proposed is the erection of a new 2m high fence set back 1m from the edge of footpath, with associated landscaping.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal encloses an area of amenity land so as to incorporate it within the appeal property's private garden. In determining the application, the Council considered this aspect of the development and referred to it in the reason for refusal. The appellant has confirmed that they have recently purchased the land in order to take responsibility for its maintenance and upkeep. The evidence appears to show that the land was not enclosed and used for residential purposes. It seems to me that the land was intended to provide an area of unenclosed amenity land. I will proceed on this basis.
3. Since the submission of this appeal, a revised version of the National Planning Policy Framework (July 2018) has been published by the Government. This is a material consideration in planning decisions. In this instance both the appellant and the Council were given the opportunity to provide comments with respect to any implications for this case.
4. Also since the submission of the appeal, the East Herts District Plan (the District Plan) has been adopted by the Council and the policies therein can now be afforded full weight in decision making. The main parties were written to inviting comments on what bearing the adoption has on this appeal, and I have taken their comments into consideration in my decision.

Main Issue

5. The main issue is the effect of the proposal upon the character and appearance of the area.

Reasons

6. The site incorporates an area of amenity land that is positioned between the existing side boundary of the appeal property's private garden area and Peters Wood Hill. There is a public highway that bends its way uphill and around the appeal site where it meets Presdales Drive. The appeal site contains a number of trees, as well as further shrubbery and undergrowth. The site, from inspection, is not readily accessible or useable given the extent of landscaping contained within. Its amenity function is therefore drawn from its undeveloped and open appearance when viewed from surrounding areas.
7. On the opposing side of Peters Wood Hill to the appeal site, there is an open-sided area of publically accessible space, which is landscaped and includes a number of trees. The area has a wooded backdrop that continues uphill from the appeal site. In the other direction, on the opposing side of Presdales Drive, there is a further grassed area bound by relatively low level bow-top metal railings facing Presdales Drive.
8. Notwithstanding the areas of open space that are in existence nearby, there is also a strong residential presence surrounding the appeal site. The frontages of properties are generally characterised by being either open or served by low-level walls to delineate either front or side boundaries. There are also plentiful examples of hedges and other soft landscaping features. These general characteristics contribute further to the open and verdant feel of the appeal site's surrounding area.
9. There are occasional examples of more prominent and imposing boundary treatments in the surrounding area. However, such examples do not define the prevailing character of the area. The proposed fence would appear unduly visually prominent, particularly as it would run close to the full length of the appeal site and have a direct visual relationship with the publically accessible space opposite. The fence would indeed be readily visible from various vantage points across this facing open area.
10. The proposed design of the fence would be intended to incorporate slim line railings that could be viewed through instead of continuous solid boundary treatment. Such a design would assist in softening the appearance of the fence, nevertheless the proposed fence would appear as a strident feature that encloses a valuable area of amenity land and significantly reduces its level of contribution to the general open character of immediate surroundings. These effects are compounded by the proposed 2 m height and the limited buffer of soft landscaping that could, realistically, be accommodated within a 1 m wide strip forward of the fence. Furthermore, no similar boundary treatments were observed nearby and the fence would appear discordant with its immediate surroundings therefore.
11. It is not proposed that any existing trees be removed at the site, although I am not aware of any constraints or restrictions in place that guarantee their long term retention. I acknowledge that a notable extent of these trees, including much of their canopies, would remain visible either above or through the proposed fence. Nonetheless, this does not alter my finding that the fence would have an adverse visual effect, particularly given its prominence when seen at street level.

12. The proposed fence would be harmful to the character and appearance of the area. The development would conflict with Policy DES4 of the District Plan in so far as it requires that all development proposals must be of a high standard of design and layout to reflect and promote local distinctiveness. The proposal would also conflict with Policy HOU12 of the District Plan in so far as this policy states that the Council will seek to ensure the retention of amenity land/open space/landscaped areas around housing developments and planning permission for the enclosure of such land into gardens will not usually be given.

Other Matters

13. Erecting a fence to enclose the appeal site may assist with its maintenance by deterring any potential unauthorised access so as not to lead to, for example, littering and dog fouling. There are also no highway safety objections. However, I have afforded limited weight to these matters given the significant visual harm that would arise from the proposal.
14. I have taken full account of the representations of support for the proposal, but this is not determinative of the main issue. I have assessed the proposal and its effect upon the character of the locality in the wider public interest.

Conclusion

15. For the above reasons, the appeal should be dismissed.

Andrew Smith

INSPECTOR



Appeal Decision

Site visit made on 19 October 2018

by **S Poole BA(Hons) DipArch MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 November 2018

Appeal Ref: APP/J1915/D/18/3206393

41 Burnham Green Road, Welwyn, Hertfordshire AL6 0NL

- 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 Simon Ewing against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0109/HH, dated 16 January 2018, was refused by notice dated 12 April 2018.
 - The development proposed is described on the application form as "*extensions and refurbishments to single dwelling house including roof conversion into habitable rooms*".
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The East Herts District Plan was adopted on 23 October 2018 and replaces the East Herts Local Plan Second Review 2007. I am required to consider the appeal against the development plan in place at the time of my decision and therefore the policies in the Local Plan are no longer relevant to the appeal. I am satisfied that the policies in the District Plan (2018) are not materially different from those referred to in the decision notice and therefore have not deemed it necessary to seek parties' comments on this matter.
3. A revised National Planning Policy Framework was published on 24 July 2018. I am satisfied that the new Framework does not differ from the 2012 Framework in respect of the matters before me and have not therefore deemed it necessary to seek parties' comments on the revised Framework.

Main Issues

4. The main issues in this case are:

- (i) whether the proposal would be inappropriate development for the purposes of section 13 of the Framework and development plan policy;
- (ii) the effect of the proposal on the openness of the Green Belt;
- (iii) the effect of the proposal on the character and appearance of the host property and the surrounding area; and
- (iv) if the proposal is 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

5. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt is inappropriate. A number of exceptions to this are identified including proposals comprising 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 appeal property is a relatively large 2-storey detached house with an attached garage to one side and a detached outbuilding to the other side. A conservatory has been added to the rear. Planning permission was granted in May 2015 for a porch at the front of the house (ref: 3/15/0661/HH) and in July 2016 for a 2-storey side extension to replace the garage and the conservatory (ref: 3/16/1307/HH).
7. The appeal proposal would comprise the insertion of 4 relatively large dormer windows, 2 within the front roof slope and 2 to the rear, plus the installation of a window in the rear gable. These changes would enable the formation of additional residential accommodation within the roof. The proposal also includes a small ground floor infill extension at the front of the house.
8. The Council has indicated that the additional floor space created by the proposal, taken together with the nearby outbuilding, would result in a 54% increase in floor area compared to the original dwelling. Whilst the outbuilding is not an extension, due to its close relationship to the house it can reasonably be treated as an extension in the application of Green Belt policies. The increase in floor area would be far greater if the extant side extension scheme is carried out.
9. I note that the proposal would add only a limited amount of additional volume to the appeal property. However, taken together with the outbuilding and the extant scheme, it is clear there would be a substantial increase in the volume of the property compared to the original volume.
10. For these reasons I conclude that the proposal would result in disproportionate additions to the appeal property over and above the size of the original building. The proposal is therefore contrary to paragraph 145 of the Framework. For these reasons it would be inappropriate development that is, by definition, harmful to the Green Belt. I attribute substantial weight to this.

Openness of the Green Belt

11. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.
12. Whilst the proposal would only result in a small increase in the volume, bulk and amount of development on the site, it would reduce, and therefore cause harm to, the openness of the Green Belt. The proposal therefore also conflicts

with the Framework in this respect, a matter to which I also attribute substantial weight.

Character and appearance

13. The section of Burnham Green Road to either side of the appeal property includes detached houses and bungalows of varied age and appearance, many of which are set back from the road and largely hidden from view. By contrast the appeal property is comparatively prominent due to its size and relative closeness to both Burnham Green Road and Purcell Close. I note that dormers are a feature of the area but these are generally small and form an integral part of the roofs of bungalows.
14. The proposed dormers would occupy a large proportion of the front and rear roof slopes and would be visible from Burnham Green Road and, to a lesser extent, Purcell Close. Due to their siting and size these elements would be incongruous and overly prominent additions that would have an unacceptable effect on the character and appearance of the host property and the surrounding area.
15. For this reason the proposal fails to comply with District Plan Policy DES4, which requires development to be of a high standard of design and layout that reflects and promotes local distinctiveness. There is also conflict with the aims of the Framework in this respect.

Other considerations

16. I turn now to consider whether there are any considerations sufficient to clearly outweigh the harm identified above in respect of inappropriateness and openness. Very special circumstances to justify inappropriate development will not exist unless the harm is clearly outweighed by other considerations.
17. The appellant has responded to the matters considered above but has not put forward any other considerations.

Green Belt balancing exercise

18. The other considerations do not amount to matters that clearly outweigh the substantial harm to the Green Belt which I have identified in respect of the proposal's inappropriateness and effect on openness. Very special circumstances to justify inappropriate development do not therefore exist. The proposal is therefore contrary to the Framework and District Plan Policy GBR1, which states that planning applications within the Green Belt will be considered in line with the provision of the Framework.
19. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should fail.

S Poole

INSPECTOR



Appeal Decision

Site visit made on 2 October 2018

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

an Inspector appointed by the Secretary of State

Decision date: 15 November 2018

Appeal Ref: APP/J1915/W/18/3201838

Beechleigh, Birch Green, Hertford SG14 2LP

- 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 G & J O'Leary against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0132/FUL, dated 19 January 2018, was refused by notice dated 28 March 2018.
 - The development proposed is the erection of two detached dwellings with garages.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the Council made its decision the revised National Planning Policy Framework (the Framework) has been published. 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 emerging East Herts District Plan (DP) was advanced at the time the application was refused by the Council and as a consequence, parties had the opportunity to comment upon the relevant emerging policies within their appeal submissions. On 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 new DP. The effect of the holding direction was that whilst it remained in force no weight could be given to the emerging plan. The main parties were therefore offered an opportunity to comment on the implications of the holding direction for this appeal.
4. On 12 October 2018 the Secretary of State withdrew the holding direction and the Council subsequently adopted the DP on 23 October 2018. As all applications and appeals must be determined in accordance with the relevant adopted policies at the time of their decision, this appeal has therefore been determined in line with the policies contained within the DP, adopted October 2018.

Main Issues

5. The appeal site lies within the Metropolitan Green Belt, therefore the main issues in this case are:
- whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
 - the effect of the proposal on the character and appearance of the site and immediate surrounding area; and
 - if the proposal is 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 inappropriate development in the Green Belt

6. The Government attaches great importance to Green Belts. 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. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt is inappropriate, unless it meets one of the exceptions. One such exception is limited infilling within villages. The terms 'villages' and 'limited infilling' are not further defined within the Framework.
7. National policy is to be read together with the relevant development plan policies. Policy GBR1 of the East Herts District Plan, adopted 2018, indicates that proposals will be determined in accordance with the Framework.
8. The DP indicates that Birch Green is a Group 2 village which is washed over by the Green Belt. Policy VILL2 of the DP indicates that limited infill development will be permitted within the built up area which is defined by the village development boundary on the Policies Map. The appeal site lies outside of the village development boundary and as such there is conflict with Policy VILL2.
9. The appeal site is an undeveloped parcel of land associated with the property known as Beechleigh. It is a well-managed grassed area containing a number of trees within one corner and a public footpath running diagonally across the site. It is accessed from the private drive that leads to Beechleigh Farm which lies to the north. The site is bounded to the east and west by open fields and as such has a rural countryside character.
10. The pattern of development of Birch Green is predominantly linear and the majority of dwellings lie to the south of The Old Coach Road. To the north of The Old Coach Road lie a small group of 7 dwellings, 4 of which front onto the road itself. This group is at the northern end of Birch Green and retains a visual, physical and functional connection with the main built form of Birch Green. Beechleigh Farm however, lies around 200 metres to the north of The Old Coach Road and as such is visually, functionally and physically detached from the small group of dwellings sited close to The Old Coach Road.

11. I find that the appeal site therefore provides a significant and noticeable gap between the cluster of dwellings sited near to The Old Coach Road and Beechleigh Farm to the north which is important to the setting of the village. Given the size of the gap and the fact that it is not an otherwise substantially built up frontage, the appeal proposal would not represent limited infilling envisaged by paragraph 145 e) of the Framework.
12. I note that the appellant refers to the Council's response to the Local Plan Examination Inspector that housing in Group 2 villages could be within or immediately adjacent to the village development boundary. Paragraph 10.3.9 of the adopted DP is clear that outside of the village development boundary small-scale development would need to be identified in an adopted Neighbourhood Plan or be on the periphery of those villages located in the Rural Area Beyond the Green Belt. The appeal site is not contained within an adopted Neighbourhood Plan and both the site and Birch Green lie within the Green Belt, consequently neither of these 2 considerations apply in this case.
13. The appellants are of the view that the appeal site lies within the village irrespective of any village development boundary. From what I observed on my site visit I do not consider that the appeal site integrates with the main built form of the village which lies to the south of The Old Coach Road. In any event, the recently adopted village development boundary should be afforded full weight. Consequently having regard to Policy GBR1 of the DP and Paragraph 145 of the Framework the appeal proposal amounts to inappropriate development. The appeal proposal would be contrary to Paragraph 145 e) of the Framework and Policy GBR1 of the DP which seeks, amongst other things, to protect the Green Belt from inappropriate development. Paragraph 143 of the Framework states that inappropriate development, by definition, is harmful to the Green Belt. This harm must therefore carry substantial weight.

Openness and purposes of Green Belt

14. 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 an assessment of both a spatial and a visual aspect is needed.
15. The appeal site is presently open and undeveloped. From the bus stop and pond area within the small group of dwellings on the northern side of The Old Coach Road, it is possible to see the appeal site. The proposed dwellings would be large 2 storey structures. As the proposal would introduce substantial built form where there is currently none, it would therefore inevitably reduce the openness and thereby harm the Green Belt. Having viewed the site from various viewpoints, including the public footpath, I consider that the proposal would harm the openness of the Green Belt and the purposes of including land within it.

Character and appearance

16. The proposed dwellings would be significantly larger than any of the existing nearby dwellings. From my own observations I do not agree that the proposed scale of dwellings would be directly comparable to others nearby. The proposed dwellings would have a larger footprint and so would form intrusively large and

prominent structures which would dominant the modest scale of the existing group of dwellings near The Old Coach Road.

17. The appellants make reference to the pre-application discussions with the Council regarding the design and size of the proposed dwellings. Whilst I note the point, pre-application discussions are not binding on a Council. I also note that the proposed materials would not be out of character with the general area. However, I do find that the proposed scale of the dwellings would harm the character and appearance of the site and immediate surroundings. It would therefore conflict with Policy DES4 of the DP which seeks, amongst other things, that development will respect the character of the site and surrounding area.

Other considerations and the Green Belt Balance

18. The Framework indicates that substantial weight should be given to any harm to the Green Belt. Inappropriate development should not be approved except in very special circumstances. The Framework also directs that the 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.
19. The appellants contend that arising from the holding direction the Council cannot demonstrate a 5-year housing land supply and therefore the proposal should benefit from the presumption in favour of sustainable development contained in paragraph 11 of the Framework. The recent adoption of the DP has superseded this argument, but in any event the presumption in favour of development does not apply to land within the Green Belt as per footnote 6 of paragraph 11. Nevertheless 2 dwellings would make a very small contribution to housing supply to which I attribute some limited weight.
20. Nos 6 to 10 Birch Green form a short terrace of Grade II Listed Buildings to the south of the appeal site. Whilst I have not been provided with a copy of the listing description, from my observations the significance of these buildings can be drawn from their modest form and timber frame style on a brick base. The proposed unit A would be the closest new dwelling to No 6. I note that the Council suggests that the proposal would not harm the setting of the Listed Buildings. The existing northern boundary treatment to No 6 interrupts the intervisibility between No 6 and unit A, this when taken together with a separation distance of around 43 metres between the dwellings. Accordingly, I do not find that the proposal would harm the setting of Nos 6 – 10 Birch Green as Grade II Listed Buildings. In reaching this conclusion I have had regard to the statutory duties set out in s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This is a neutral factor in the planning balance.
21. A number of other concerns have been raised, including the impact on the public footpath, single lane gravel track, vehicle movements and Great Crested Newts. The public footpath would remain on the current route and appropriate conditions could have been attached to ensure it would be maintained and protected if the appeal proposal was acceptable in all other respects. Regarding the gravel track, if the proposal had been acceptable a condition requiring a construction management plan could have included measures to protect the track during the construction phase. The likely vehicle movements arising from the appeal proposal would not be significant enough on their own to justify withholding permission. No substantive evidence has been presented regarding the presence of, or likely presence of, Great Crested Newts on the appeal site;

as such this claim cannot be substantiated. Other concerns relating to other proposals within the Beechleigh Farm complex are outside the scope of this appeal. These factors are therefore all neutral in the planning balance.

22. 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

23. For the reasons set out above, having regard to all matters raised, the appeal should be dismissed.

Rachael A Bust

INSPECTOR



Appeal Decision

Site visit made on 4 September 2018

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2018

Appeal Ref: APP/J1915/D/18/3207715 2 Beech Close, Ware SG12 9NQ

- 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 Claire White against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0947/HH, dated 8 April 2018, was refused by notice dated 20 June 2018.
 - The development proposed is a first floor side extension and alterations to conservatory roof.
-

Decision

1. The appeal is allowed and planning permission is granted for a first floor side extension and alterations to conservatory roof at 2 Beech Close, Ware SG12 9NQ, in accordance with the terms of the application, Ref: 3/18/0947/HH, dated 8 April 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 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; P.002 Existing and Proposed Site Plan; P.003 Existing and Proposed Plans; P.004 Existing and Proposed Elevations.
 - 3) The external surfaces of the development hereby permitted shall match those used in the construction of the existing building.

Procedural Matters

2. At paragraph 1 above I have adopted the description of the development from the Council's decision notice as it is precise. There is nothing before me to suggest that any concerns have been raised with respect to the proposed conservatory roof alterations, I have therefore not considered these further in my reasoning.
3. Since the submission of the appeal, a revised version of the National Planning Policy Framework (July 2018) has been published by the Government. This is a material consideration in planning decisions. In relation to the main issues in this appeal, Government policy has not materially changed and it was not therefore necessary to invite any further comments from the parties involved.
4. Recently, the East Herts District Plan (the District Plan) has been adopted. The main parties were written to inviting comments on what bearing the adoption

has on this appeal, and I have taken their comments into consideration in my decision.

Main Issue

5. The main issue is the effect of the proposed first floor side extension upon the character and appearance of the appeal property and its surroundings.

Reasons

6. Beech Close runs from Hoe Lane and provides access to 6 residential properties (including 32 Hoe Lane near to the entrance to the Close). The 5 properties located to the rear of 32 Hoe Lane, including the appeal property (No 2), are 2 stories in scale and detached. The appearance of individual dwellings is varied, particularly as building materials and fenestration differ within the street scene.
7. Of the 5 Beech Close properties, only 1 Beech Close (No 1) is positioned on the same orientation as No 2. An integral double garage of single storey height serves No 2 and is positioned to the side and adjacent to the grounds of No 1. The 3 remaining properties – 3, 4 and 5 Beech Close are located at the end of the Close and are set across close to the full width of their respective plots.
8. The proposed first floor extension would be positioned above the appeal property's garage and would be a relatively small addition to the existing dwelling that matches the pitch of the dwelling's roof and would be constructed from a matching palette of external facing materials. It would also follow the existing building lines of the garage so as to be set behind the main front building line of No 2 and a short distance away from the side boundary of the appeal site. Its ridge height would also be set beneath the full ridge height of No 2, meaning that it has been designed to appear subservient to the main dwelling. The proposal would appropriately respect the character and appearance of the appeal property therefore.
9. Whilst the extension would provide an additional storey of development to the side of the site and adjacent to No 1, it would not have a visually negative effect upon the appearance of the host building. This is because of its limited scale. The proposal would not disrupt any distinct pattern or wider rhythm of development. The resultant development would not appear unduly large or out of place in light of the relationships observed between the host building and dwellings nearby. A separation distance, albeit narrow, would be retained between Nos 1 and 2 upon the same alignment already provided by the appeal site's garage.
10. Protected mature trees line the rear boundary of the appeal site and contribute to the character of the area. Views of the trees over No 2, for example from the opposing side of Beech Close and beyond, would be slightly impeded by the proposal. Nonetheless, views would continue to be available from a wide variety of vantages in the vicinity of the appeal site. Whilst I note concerns about the effect of the development upon views of the trees, I find that the proposal would have a very minimal impact on the visual contribution made by the trees to the character of the area.
11. The proposal would not cause harm to the character and appearance of the appeal property or its surroundings. The proposal complies with Policies DES4 and HOU11 of the District Plan in so far as these policies require that all development proposals, including extensions to existing buildings, must be of a

high standard of design and layout to reflect and promote local distinctiveness, and that side extensions at first floor level or above should ensure appropriate space is left between the flank wall of the extension and the common curtilage with a neighbouring property.

Conditions

12. I have specified the approved plans in the interests of certainty. A condition is necessary to ensure that the external surfaces of the proposal match existing building materials so as to safeguard the character and appearance of the appeal dwelling and its surroundings.

Conclusion

13. For the reasons set out above, I conclude that the appeal should be allowed.

Andrew Smith

INSPECTOR



Appeal Decision

Site visit made on 19 October 2018

by S Poole BA(Hons) DipArch MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2018

Appeal Ref: APP/J1915/D/18/3207172

40 Maze Green Road, Bishop's Stortford, Hertfordshire CM23 2PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Vincent against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0993/HH, dated 24 April 2018, was refused by notice dated 21 June 2018.
 - The development proposed is the erection of a double garage and a bin store
-

Decision

1. The appeal is dismissed

Procedural Matters

2. The East Herts District Plan was adopted on 23 October 2018 and replaces the East Herts Local Plan Second Review 2007. I am required to consider the appeal against the development plan in place at the time of my decision and therefore the policy referred to in the reason for refusal is no longer relevant to the appeal. I am satisfied that Policy DES4 of the District Plan (2018) is not materially different from Policy ENV1 of the replaced plan and therefore have not deemed it necessary to seek parties' comments on this matter.
3. A revised National Planning Policy Framework was published on 24 July 2018. I am satisfied that the new Framework does not differ from the 2012 Framework in respect of the matters before me and have not therefore deemed it necessary to seek parties' comments on the revised Framework.

Main Issue

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

Reasons

5. The appeal property is a relatively large detached house with an attached garage to the side. It is located in a residential street comprising detached houses with front gardens, many of which contain mature trees and vegetation. This gives the street scene a relatively spacious and verdant appearance, a matter to which I attach significant weight.
6. The property is located next to the junction between Maze Green Road and Matching Lane and includes a large area of hardstanding at the front. The

proposal would comprise the erection of a double garage and bin store in the corner of the site next to Maze Green Road and the boundary shared with No. 38. The proposal would have an asymmetrical footprint and the main part would have a shallow pitched roof.

7. Whilst the area surrounding the appeal site includes properties of varied age and architectural styles, it is also notable for the absence of development close to the road, which has ensured the maintenance of the verdant character of the street scene. I recognise that the proposal would be partly screened by the hedge next to the front boundary of the site, but this is unlikely to be substantive enough to entirely screen the building and, in any case, the proposal would be visible via the entrance to the site.
8. Due to its size and siting I conclude that the proposal would be an overly prominent and incongruous addition to the street scene that would have an unacceptable effect on the character and appearance of the area. For this reason the proposal fails to comply with District Plan Policy DES4, which requires development to be of a high standard of design and layout that reflects and promotes local distinctiveness. There is also conflict with the aims of the Framework.

Conclusion

9. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should fail.

S Poole

INSPECTOR



Appeal Decision

Site visit made on 17 October 2018

by **P B Jarvis DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 November 2018

Appeal Ref: APP/J1915/D/18/3207979

1 Bayford Close, Hertford SG13 8HW.

- 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 Paul Lawes against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/1197/HH, dated 18 May 2018, was refused by notice dated 17 July 2018.
 - The development proposed is a rear detached garage.
-

Procedural Matter

1. I note that the plans indicate the position of a proposed fence and summer house on the roof of the proposed garage and these are referred to by the appellant as part of the proposal. In addition, it is clear that the Council considered them similarly. Therefore, the following description more accurately reflects the development for which planning permission is sought "*rear detached garage, new fence and summer house*" and I shall use it below.
2. Since the appeal was submitted it has been confirmed that the East Herts District Plan 2011 to 2033 (2018) (DP) has been adopted. I therefore refer to the policies of that plan.

Decision

3. The appeal is dismissed insofar as it relates to the new fence and summer house.
4. The appeal is allowed and planning permission is granted for a rear detached garage at 1 Bayford Close, Hertford SG13 8HW, in accordance with the terms of application ref. 3/18/1197/HH dated 18 May 2018, subject to the following conditions:
 - 1) The development hereby permitted, which for the avoidance of doubt is the detached garage only, shall begin not later than 3 years from the date of this permission.
 - 2) This permission shall relate to the following plans: 1:500 block plan and drawing no: BC/01.
 - 3) No fencing or other structures shall be erected on the roof of the garage hereby permitted.

Main Issues

5. The main issues are the effect on (a) the character and appearance of the area and (b) the living conditions of the occupiers of the adjoining property, No. 3 Bayford Close.

Reasons

6. The appeal property is an end of terrace property located on a steeply sloping site. It fronts onto Bayford Close at the higher level and has a rear garden with patio and sloping area which backs onto Lee Close to the rear. The rearmost part of the garden is at a higher level than the pavement of Lee Close, the boundary being marked by a blockwork retaining wall with fence above to a height of just over 3 metres.
7. The proposed garage would be sited in the rear garden area fronting onto and at the same level as Lee Close. It would involve excavation of the rearmost section of the garden and would extend across the width of the garden and to a height of around 2.5m. This would be just below the height of the existing boundary fence which marks the side boundary of the site on both sides.
8. I consider that the proposed garage would not look out of place within the streetscene of Lee Close. It would be set within the existing slope of the site with a flat roof to a height below that of the existing rear boundary fence, and screened to the side boundaries by the existing fence which is shown to be retained. Whilst it would introduce a building frontage in place of the existing fence and retaining wall, I do not consider that this would detract from the existing street scene at this end of Lee Close which is characterised by a variety of fencing, some hedging, various outbuildings and a detached garage in the front garden of the property opposite the site, albeit that is set back from the road frontage at a slightly lower level.
9. There is a public footpath running along the side boundary of the appeal site comprising steps that link Bayford Close with Lee Close. The proposed garage would not be readily seen behind the retained garden fence.
10. In respect of the relationship with the adjoining property, no. 3 Bayford Close, this also has its dwelling set at the higher level with sloping rear garden down to Lee Close with gated access in the rear boundary. The fence along the boundary with this property would also be retained and the proposed garage would not extend above it. In these circumstances, the proposed garage would not have an overbearing impact nor result in any loss of privacy in respect of this adjoining property.
11. I find that the proposed garage would not be harmful to the character and appearance of the street scene nor would it detract from the living conditions of the occupiers of the adjoining property. It would thus comply with DP policies DES4 and HOU11 which seek a high standard of design and layout, promote local distinctiveness and the best possible use of available land by respecting or improving upon the character of the site and the surrounding area; also that development should be of a size, scale, mass, form, siting, design and materials that are appropriate to the character, appearance and setting of the existing dwelling and surrounding area and that significant detrimental impacts on the amenity of occupiers of neighbouring properties and land should be avoided.

12. However, with regard to the proposed fence and summer house, whilst there appears to be no full elevational details, details of siting and height are provided. I consider that these would be intrusive features in the street scene by virtue of their position on the roof of the proposed garage. Despite their siting towards the rear half of the garage they would nevertheless be prominent features in the street scene. Whilst there are existing sheds in the garden of the appeal property these are at a lower level and do not appear as particularly intrusive features having regard to existing surrounding development. These structures would therefore be harmful to the street scene and thus there would be conflict with DP policies DES4 and HOU11.
13. As the above elements are physically separate, I intend to issue a split decision, allowing the rear garage but dismissing the fence and summer house.
14. With regard to conditions, as well as referring to the approved plans for the avoidance of doubt, I consider that it is necessary to restrict the erection of any structures on the roof of the garage in order that their impact on the street scene can be fully assessed.
15. I therefore conclude that this appeal should be allowed in part and refused in part.

P Jarvis

INSPECTOR



Appeal Decision

Site visit made on 30 October 2018

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2018

Appeal Ref: APP/J1915/D/18/3209661
5 East Riding, Tewin Wood, Tewin AL6 0PA

- 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 Colin O'Farrell against the decision of East Herts Council.
 - The application Ref 3/18/1245/HH, dated 29 May 2018, was refused by notice dated 25 July 2018.
 - The development proposed is 'basement level accommodation with adjoining lower terrace, amended front entrance design proposal to approved design planning permission ref: 3/18/0174/HH dated 8 March 2018'.
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Decision

1. The appeal is allowed and planning permission is granted for basement level accommodation with adjoining lower terrace, amended front entrance design proposal to approved design planning permission ref: 3/18/0174/HH dated 8 March 2018 at 5 East Riding, Tewin Wood, Tewin AL6 0PA. The permission is granted in accordance with the terms of the application Ref 3/18/1245/HH, dated 29 May 2018, 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: 1871_001 (location plan), 1871_010 Revision D (site plan), 1871_011 Revision D (ground floor plan), 1871_012 Revision E (elevations), 1871_013 Revision D (elevations), 1871_015 Revision A (ground plan, RPA), 1871_016 Revision A (basement plan) and 1871_017 Revision A (basement section).

Procedural Matters

2. The East Herts District Plan was adopted on 23 October 2018 following the Secretary of State's withdrawal of his Holding Direction, which was issued to prevent its adoption. I note that the Council relies in this case on a policy from the newly-adopted plan and, therefore, I have had full regard to this as well as to the National Planning Policy Framework (the Framework).

Main Issues

3. As the appeal property is within the Green Belt the main issues are:
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- 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 set in a large plot in a residential area of similar property types. 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 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 Policy GBR1 of its District Plan, which says that planning applications for development within the Green Belt will be considered in line with the provisions of the Framework. As such, the principal policy consideration in this case is provided by the Framework.
7. The appellant indicates that the proposed additions would amount to 142m² of additional floorspace, while the area of the original building was just under 249m². However, having regard to its recent grant of permission for a similar form of development (reference 3/18/0174/HH) and a previous appeal decision in which the extent of what might be disproportionate development at the appeal property was considered¹, the Council does not raise any concerns about the single storey extension, canopy or alterations to the existing fenestration. Consequently, it refers only to the area of the new element, the proposed basement, which is some 94m².
8. The original building has been extended a number of times, which in total amounts to around 152m² of additional floorspace according to the appellant. Taking these existing extensions and the proposed basement as a whole, the Council indicates that this would amount to a 103% increase in floor area above the area of the original building. However, assessing proportionality is primarily an objective test based on size and, therefore, floorspace is not the only possible measure of the degree of change. Any changes should, therefore, be compared to the original physical size and scale of a building, including the degree of bulk or mass that might be added.
9. The single storey extension, due to its limited height and additional depth, would not be a disproportionate addition to the original building and, therefore, I agree with the Council in this regard. The Council does, however, conclude that the proposed extensions when cumulatively taken with the proposed

¹ APP/J1915/D/17/3169260, dated 8 May 2017.

basement would result in disproportionate additions. Given that it considers that the other elements on their own would be acceptable, it follows that the principal consideration in this regard is the effect of the basement.

10. The rear extension and basement would utilise the area of the existing terrace with an additional lower level terrace of limited depth. The basement itself would be positioned underneath the original and extended terrace, with the only manifestation above ground being a lightwell. As such, the additional floorspace created by the basement would have a limited effect on the size of the building in terms of bulk, mass or material alterations to the built form.
11. The Council refers to an appeal decision, which included a basement and which was dismissed on the basis that this would be a disproportionate addition to the property². I acknowledge that in principle the creation of basement space is capable of altering the size of a building disproportionately as found in the earlier appeal. However, in that case the subterranean extension would accommodate parking for nine cars, a motorbike display area and a swimming pool, with a total area of some 462m². The proposed basement in this case is of a much smaller size, both in its own right and in relation to the size of the host dwelling.
12. Therefore, for the above reasons, I find that the proposal would not result in disproportionate additions over and above the size of the original building. Consequently, I conclude in accordance with the provisions of the Framework and development plan policy that the proposal would not be inappropriate development in the Green Belt.

Effect on openness

13. The effect on openness is implicitly taken into account in the exceptions included in paragraph 145 of the Framework unless there is a specific requirement to consider the actual effect on openness. Therefore, for those exceptions within paragraph 145, including c) as in this case, where the effect of the development on openness is not expressly stated as a determinative factor in gauging inappropriateness, and where the development has been found to be not inappropriate development as is the case here, there is no specific requirement to assess the impact of the development on the openness of the Green Belt.
14. Nonetheless, for the avoidance of doubt, the proposed extensions would add little substantive development beyond the dwelling's existing footprint within a self-contained residential curtilage. Moreover, due to the large garden and generous separation from neighbouring properties, the proposed additions would not readily be seen from the surrounding area. As such, there would be no material harm to the Green Belt's openness as a result of additional development of the type proposed.

Overall conclusion

15. I have found above that the proposal would not be inappropriate development in the Green Belt in accordance with paragraph 145 of the Framework and development plan policy. Moreover, there would be no harmful effects on the

² APP/J1915/D/17/3166395, dated 20 March 2017.

openness of the Green Belt. Consequently, there is no conflict with the development plan policy referred to or the Framework and so the appeal should succeed.

Conditions

16. Of the Council's suggested conditions I have imposed the standard time condition and, to ensure the proper implementation of the proposal, one requiring development to be carried out in accordance with the approved plans. I do not consider it necessary, however, to include the suggested condition requiring the external materials used to match those of the existing building. The plans include considerable detail of the proposed materials and, therefore, the second condition will ensure that the development is undertaken in accordance with the submitted details.
17. For the reasons given above it is concluded that the appeal should succeed.

J Bell-Williamson

INSPECTOR

Appeal Decision

Site visit made on 12 November 2018

by J L Cheesley BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2018

Appeal Ref: APP/J1915/D/18/3211197

12 Hillside Cottages, Wareside, Ware, Hertfordshire SG12 7RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Peter and Susan Davidson against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/1280/HH was refused by notice dated 7 August 2018.
 - The development proposed is a two-storey side extension incorporating balcony.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have been provided with Plan PL.103 Revision C which has not been listed on the Council's Decision Notice. The Council has confirmed that this plan was missed from the Decision Notice and thus should be taken into consideration.
3. Since the Council made its decision, the East Herts District Plan (2018) has been adopted. Policies in the East Herts Local Plan 2007 have been superseded. Therefore, I have determined the proposal before me in accordance with policies in the 2018 District Plan.

Main Issues

4. I consider the main issues to be the effect of the proposal on the character and appearance of the existing dwelling and surrounding area.

Reasons

5. The appeal property is a semi-detached dwelling of traditional design in a rural location at the end of a row of dwellings. These are raised above Ware Road. The frontages overlook Ware Road and the fields beyond. Some of the dwellings in this row have been altered. This has resulted in a loss of uniformity of design of the dwellings. Nevertheless, glazed projecting first floor balconies are not a characteristic of this row of dwellings.
 6. Planning permission, Ref 3/17/2950/HH, has been granted for a two-storey side extension with a Juliet balcony and new ground floor rear opening window.
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The proposal before me is for a similar side extension, but with a projecting balcony, rather than a Juliet balcony. The proposed projecting balcony would extend across most of the width of the proposed side extension and would comprise predominately of glass with stainless steel.

7. I consider the cumulative additions of the proposed side extension and projecting balcony, due to their cumulative scale and siting in such a prominent position, would appear as unduly prominent additions within the streetscene. This would be to the detriment of the rural character and appearance of the surrounding streetscene along Ware Road.
8. From my observations, due to the design, siting and materials, I consider that the proposed balcony would appear as an incongruous urbanising addition to this traditional dwelling in this rural setting. This would be to the detriment of the character and appearance of the host dwelling. In such a prominent position, even with the existing boundary vegetation, this would be to the detriment of the rural character and appearance of the surrounding area.
9. In reaching my conclusion, I have had regard to all matters raised. I conclude that the proposal would have an adverse effect on the character and appearance of the existing dwelling and surrounding area. Thus, the proposal would be contrary to Policies DES4 and HOU11 in the East Herts District Plan (2018) where they seek to ensure that a residential extension is of a high standard of design that is appropriate to the character, appearance and setting of the existing dwelling.

J L Cheesley

INSPECTOR