



Appeal Decisions

Inquiry Held on 15 May 2018, 22 October 2018, 26-29 November 2018 and 11 January 2019

Site visit made on 15 May 2018

by Andrew R Hammond MA MSc CEng MIET MRTPI

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

Decision date: 28 March 2019

Appeal A Ref: APP/J1915/C/17/3174667

Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr James Cash against an enforcement notice issued by East Hertfordshire District Council.
 - The enforcement notice, numbered E/17/0114/ENF was issued on 5 April 2017.
 - The breach of planning control as alleged in the notice is without planning permission, the stationing of caravans/mobile homes on the land for residential use.
 - The requirements of the notice are cease the unauthorised residential use of the land and remove the caravans/mobile homes from the land.
 - The period for compliance with the requirements is 4 Months from the date the notice comes in to effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) & (g) of the Town and Country Planning Act 1990 as amended.
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Appeal B Ref: APP/J1915/C/17/3174668

Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr James Cash against an enforcement notice issued by East Hertfordshire District Council.
 - The enforcement notice, numbered E/17/0114/ENF was issued on 5 April 2017.
 - The breach of planning control as alleged in the notice is the unauthorised laying of hard standing and installation of drainage works on the site.
 - The requirements of the notice are remove the hard standing and installed drainage and any resultant material from the land.
 - The period for compliance with the requirements is 4 Months from the date the notice comes in to effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) & (g) of the Town and Country Planning Act 1990 as amended.
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Appeal C Ref: APP/J1915/W/17/3177630

Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
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- The appeal is made by Mr James Cash against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/0781/FUL, dated 27 March 2017, was refused by notice dated 25 May 2017.
 - The development proposed is change of use of land from use for stabling/keeping horses to a mixed use for stabling/keeping horses and as a residential caravan site for one gypsy family including stationing of one mobile home, one touring caravan, laying of hardstanding, improvement of existing access and installation of septic tank.
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Decision Appeal A

1. It is directed that the enforcement notice be corrected: by the deletion of the words "Without planning permission, the stationing of caravans/mobile homes on the land for residential use." and the substitution of the words "without planning permission the material change of use of the land and buildings from use for stabling/keeping horses to a mixed use for stabling/keeping horses and as a residential gypsy site." in the matters which appear to constitute the breach of planning control. Subject to this correction the appeal is allowed and the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land and buildings at Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY, as shown on the plan attached to the notice, for a mixed use of stabling/keeping of horses and the stationing of caravans/mobile homes on the land for residential use subject to the conditions in Appendix A.

Decision Appeal B

2. It is directed that the enforcement notice be corrected: by the addition of the Plan B annexed to this decision to the enforcement notice; by the deletion of the words "Remove the hard standing and installed drainage " and the substitution of the words "Remove the hardstanding shown edged and cross hatched red on Plan B and the septic tank and associated drainage works" in the requirements of the notice. Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the laying of hardstanding and installation of drainage works on the land at Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY subject to the conditions in Appendix A.

Decision Appeal C

3. The appeal is allowed and planning permission is granted for change of use of land from use for stabling/keeping horses to a mixed use for stabling/keeping horses and as a residential caravan site for one gypsy family including stationing of one mobile home, one touring caravan, laying of hardstanding, improvement of existing access and installation of septic tank at Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY in accordance with the terms of the application, Ref 3/17/0781/FUL, dated 27 March 2017, subject to the conditions attached as Appendix A.

Application for Costs

4. An application for costs was made by Mr James Cash against East Hertfordshire District Council. This application is the subject of a separate Decision.

Procedural Matters

5. The Inquiry was related to three separate appeals, Appeal A against an enforcement notice alleging a material change of use; Appeal B against an enforcement notice alleging operational development; and Appeal C against refusal of planning permission. The operational development in Appeal B facilitated the change of use alleged in Appeal A. The allegations in appeals A & B taken together constitute the development which is the subject of Appeal C. Although it is necessary to determine each of these appeals in its own right, to avoid duplication I have dealt with the appeals together as indicated.
6. Subsequent to the issue of the enforcement notices and consideration of the planning application the Council have adopted the East Hertfordshire Local Plan 2018 as part of the Development Plan. The appeals have been determined on the basis of the adopted plan.

The Enforcement Notice – Appeal A

7. The allegation in the notice is without planning permission, the stationing of caravans/mobile homes on the land for residential use. It is clear that the notice attacks a change of use of the land from use for stabling/keeping horses to a mixed use for stabling/keeping horses and as a residential gypsy site. No injustice would be caused to any party by correcting the notice to that effect.
8. The enforcement notice requires the removal of caravans/mobile homes from the land. It is clear on the face of the notice that this relates to those structures brought onto site for residential purposes.

The Enforcement Notice – Appeal B

9. The notice alleged “the unauthorised laying of hard standing and installation of drainage works on the site” and required “remove the hard standing and installed drainage and any resultant material from the land.” The appellant had appealed on ground (f) on the basis that there was pre-existing lawful hardstanding and surface water drainage on the appeal site and that the requirements were excessive in that they included removal of lawful works. The Council confirmed at the Inquiry that the notice was intended to attack additional hardstanding and the provision of a septic tank and associated works and an agreed plan showing the additional hardstanding was produced. It was agreed that no party would be caused injustice by the correction of the notice in that respect and on that basis the appellant did not pursue the ground (f) appeal.

Reasons: Appeal C, Appeal A ground (a) and Appeal B ground (a)

Main Issues

10. The main issues in these appeals is the sustainability of the appeal site as a site as a residential caravan site for one gypsy family; the effect of the development on the setting of heritage assets; and the effect on the character and appearance of the countryside.

Sustainability

11. The Council’s reasons for refusal, in Appeal C, was that the appeal site was in an unsustainable location for a gypsy site. This stance was supported by the Friends of Rowney Lane (FORL), a ‘Rule 6 Party’ who participated in the Inquiry.

12. The Statement of Common Ground describes the appeal site as comprising 0.2 hectare of land located along the south-eastern side of Rowney Lane, Dane End and forming part of a larger holding extending in total to about 3.24 hectare.
13. The appeal site contains a substantial timber stable building around 40m in length parallel to the road and it is common ground that there was originally a mobile home located to the north-east within a domestic garden.
14. The site is substantially screened by woodland and the lawful stable building along the site frontage with Rowney Lane and by woodland to the east. New hedgerows have been planted along the south-western and north-eastern boundaries of the appellant's land holding which is mostly laid to grass for the purposes of grazing horses but includes around 0.8 hectare of woodland.
15. Access to the appeal site is from Rowney Lane via an existing entrance located at the south-western end of the site frontage. The appeal site is less than 200m (in a direct line) from the closest housing, Potters Wood Close to the north-east and Rowney Priory to the south-west. At Rowney Priory, in addition to the original Grade II listed dwelling, there are a number of associated buildings in residential use such as to form a distinct cluster of dwellings and outbuildings including a substantial garage building to the north-east of the Priory.
16. The appeal site is located around 2.6km from Dane End village, the closest settlement containing local community services and facilities, including a primary school and a village shop.
17. Policy GBR2 of the East Hertfordshire Local Plan 2018 (LP) makes clear that planning permission will be granted for accommodation for gypsies and travellers in accordance with Policy HOU9. Policy HOU9 carries a presumption in favour of proposals for gypsy and traveller sites outside of the Green Belt, subject to compliance with 8 criteria. The Council originally cited only conflict with Criterion II(a) which requires accommodation for gypsies and travellers to be in a sustainable location in terms of accessibility to existing shops, social, educational and health services and potential sources of employment. The criterion is, however, silent on distances or on means of access other than the private motor car.
18. Planning Policy for Traveller Sites (PPTS) sets out Government policy in respect of traveller sites and acknowledges that gypsy sites may be located in rural or semi-rural areas provided that such sites do not dominate the nearest settled community. Policy H (paragraph 25) states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.
19. In support of the argument that the appeal site is in an unsustainable location the Council cited a previous appeal decision T/APP/C/96/J1915/643817-18, dated 12 June 1997, against an enforcement notice issued on 11 June 1996 alleging a material change of use of the land from use for stabling, grazing and riding of horses to a mixed use for stabling, grazing and riding of horses and the standing of a caravan for human habitation.

20. However, that decision related to a caravan for general residential purposes and not for accommodation for gypsies or travellers for which the provisions of PPTS apply. Furthermore, both PPTS and the National Planning Policy Framework (the Framework) postdate that decision.
21. Both main parties produced examples of decisions where the sustainability of the appeal site was a main issue. However, in the light of the lack of any quantifiable criteria in local or national policy the question of sustainability in relation to distance to services and accessibility is a matter for the decision maker, taking account of local circumstances.
22. The Council and FORL also cited paragraph 25 of PPTS which states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Both parties sought to rely on *Braintree DC v SSCLG [2018] EWCA Civ 610* in support. However that case related to two dwellings with specific reference to paragraph 55 of the (then) Framework and the use of the word 'isolated' in that document cannot be equated to the reference to 'away from existing settlements' in PPTS. In his judgement Lindblom LJ held that "Whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand" and continued "What constitutes a settlement for these purposes is also left undefined in the NPPF. The NPPF contains no definitions of a 'community', a 'settlement', or a 'village'. There is no specified minimum number of dwellings, or population. It is not said that a settlement or development boundary must have been fixed in an adopted or emerging local plan, or that only the land and buildings within that settlement or development boundary will constitute the settlement. In my view a settlement would not necessarily exclude a hamlet or a cluster of dwellings, without, for example, a shop or post office of its own, or a school or community hall or a public house nearby, or public transport within easy reach. Whether, in a particular case, a group of dwellings constitutes a settlement, or a 'village', for the purposes of the policy will again be a matter of fact and planning judgment for the decisionmaker".
23. Furthermore, PPTS also does not define what is meant by 'settlement' in that document and there is no suggestion that the expression should be limited to designated settlements. Paragraph 25 continues with 'Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.' PPTS recognises, therefore, that traveller sites that are not within, or contiguous with, the nearest, undefined, settled community are not unacceptable in principle.
24. FORL argue that Potters Wood Close and Rowney Priory are not settlements in that the numbers of dwellings are small, are not accessible to the public and do not front a highway. However there is little substance to this argument. There is no reason why a settlement should not be accessed via a private road or driveway and both Potters Wood Close and many of the dwellings adjacent to Rowney Priory are visible from the highway with some adjacent to the road.
25. The appeal development is close to although not contiguous with established small settled communities at Potters Wood Close and Rowney Priory and is not, in principle, in conflict with the Framework or PPTS in respect of its location.

26. Factors to be taken into account in relation to traveller sites are set out at paragraph 13 of the PPTS but the NPPF also has a presumption in favour of sustainable development at its heart. Both documents indicate that there are economic, social and environmental dimensions rather than simply the narrow question of how far the site is from local services and facilities and whether there would be undue reliance on the car. PPTS states, at paragraph 13, that local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally and at sub-paragraph h) of paragraph 13 states that local planning authorities should ensure that policies reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability. These wider considerations did not form part of the reasoning by the Inspector in a previous appeal at a nearby site at Elmfield Stables, Throcking (APP/J1915/A/12/2187829).
27. Whilst it is accepted that the appellant would be reliant on a private car to access services in Dane End, some 2.6km distant, given the wider consideration of sustainability in the Framework and the specific considerations of gypsy and traveller sites in PPTS, the appeal site is not in an unsustainable location and is not, therefore, in conflict with LP Policy HOU9 II(a).

Heritage

28. Section 66(1) of the *Planning(Listed Buildings and Conservation Areas) Act 1990* states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
29. Furthermore, one of the core planning principles of the National Planning Policy Framework is that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
30. Whilst the Council maintained the position that there was no heritage harm, the case of the Friends of Rowney Lane (FORL) was that the appeal development harms the setting of Rowney Priory and that furthermore the 'parkland' associated with the Priory is a heritage asset itself, albeit not designated, and that the development is harmful to that heritage asset.

Rowney Priory

31. Rowney Priory is Grade II listed, the first listing being 4 December 1951. The list description describes it as 'a country house, now 2 houses' (subsequently converted to a house and 3 flats) 'said to incorporate fabric of a Benedictine nunnery founded in 1164.' The list description continues to describe in some detail the external appearance of the building and limited description of internal features. Whilst there is also a listed medieval stone coffin on an island in a small lake within the laid-out gardens there is no further mention of the grounds or setting of the priory.
32. The significance of Rowney Priory as a heritage asset is, therefore, its visual appearance and historic interest. FORL accept that the Priory is not physically

harm by the appeal development and that there is no substantial harm to the significance of Rowney Priory.

33. Indeed, given the physical separation, it is reasonable to conclude that there is no harm to the Priory itself. However, considerable weight needs to be given to any harm to the setting of the building. This is dealt with further below.

The 'parkland'

34. FORL suggest that Rowney Priory sat within an extensive area of designed parkland, including the appeal site, and that the parkland was so designed to enhance the appearance of, and views from, the Priory. The priory sits within designed gardens and the area to the east of the Priory is substantially open, with distant backdrops of woodland and with specimen trees closer, and a drive afforded access to the Priory from a lodge to the south-east, no doubt providing a dramatic approach to the house.
35. Whilst FORL (and Hertfordshire Gardens Trust) produced much in the way of evidence aimed at demonstrating that the wider area was designed parkland, there is little of substance other than speculative interpretation of historic plans and maps which have little or no detail or annotation to endorse the conclusion that there was ever a designed landscape, perhaps with the exception of the specimen trees, beyond the ornamental gardens of the Priory. Furthermore, whilst not definitive, the listing of the Priory made no reference to any historic parkland or to the setting of the listed building.
36. Whilst it is equally the case that there is little, if any, evidence that there was never a designed landscape in the area towards the appeal site, it is clearly apparent that the appeal site does not sit within designed parkland, if it ever did. It contains no features of a designed landscape.
37. It is therefore reasonable to conclude that the appeal development does not cause harm to an undesignated heritage asset, namely a designed parkland.

The setting of Rowney Priory

38. The setting of a heritage asset is not limited to its curtilage or its immediate surroundings. Indeed, the lack or existence of a visual or physical connection between a development site and a heritage site is not a determining factor when considering the setting, the framework definition of 'setting' being the surroundings in which a heritage asset is experienced.
39. As reasoned above, there is no conclusive evidence that the appeal site was ever part of a designed landscape and, whilst it did form part of the historic Priory estate, it has not been demonstrated that there was a clear functional relationship. Even if there were any historic and/or functional link with Rowney Priory, it is clear that the setting of heritage assets alters with time.
40. Nevertheless, the mobile home on the appeal site is currently visible from the Priory and its immediate surroundings and therefore does affect to a limited extent the setting and the setting's character, although it is doubtful that there are few locations, other than the appeal site itself, where the mobile home appears against the backdrop of the Priory within its immediate surroundings. The mobile home could be screened from view, or its effect mitigated, by soft landscape works. Whilst FORL contend that this would be detrimental in screening views of open countryside beyond, the backdrop to the view across

the appeal site is a belt of trees and there is no substantial open area to be screened from view.

41. Given that the appeal site is somewhat distant from the Priory and that the appeal development must be considered in the context of the substantial lawful stable development on the site, including the potential for the lawful parking of vehicles, including horseboxes and trailers any harm is limited and less than substantial but is nevertheless of considerable weight when balanced against any benefits of the appeal development.

Character and Appearance

42. The appeal site is substantially screened from Rowney Lane by existing hedgerows and the lawful stable building. Any effect on the character and appearance of the countryside must be assessed in consideration of the effect of the existing lawful development on the site, including the unrestricted parking of vehicles associated with the keeping of horses.
43. LP Policies HOU9 and GBR2 provide for gypsy and traveller sites in the countryside provided they do not cause undue harm to visual amenity or the character of the countryside.
44. Furthermore, PPTS states, at paragraph 26(d) that local authorities should attach weight to not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. It follows that it is envisaged that gypsy and traveller sites will be visible from the public domain and that a degree of visual harm resulting from such sites in the countryside will be inevitable. However, such harm cannot be compared directly to similar harm resulting from non-traveller development and whilst the latter may be unacceptable the former may not be. Public views of the appeal site would be extremely limited, and any harm could be mitigated by appropriate landscaping and boundary treatment, which could be controlled by condition.
45. Whilst it is inevitable that there would be some effect on the character and appearance of the countryside, the weight to be attached to any harm is, therefore limited.

Intentional Unauthorised Development

46. In 2015 the Secretary of State issued a planning policy statement on Green Belt protection and intentional unauthorised development. This policy statement, which the Government has very recently confirmed still applies, makes intentional unauthorised development a material consideration to be weighed in the determination of planning applications and appeals. The reasons given for the policy were explained as that it applied where there has been no opportunity to appropriately limit or mitigate the harm that has taken place.
47. In this instance a planning application was submitted prior to the issue of the enforcement notices giving the Council the opportunity to limit or mitigate harm by the imposition of planning conditions or to refuse the application and then issue an enforcement notice requiring the land to be returned to its former condition

48. In the current appeals, although the residential use of the site amounts to intentional unauthorised development the weight to be attached to this in the determination of the appeal is limited.

Other Matters Raised in Objection

49. The Council belatedly raised an objection based on conflict with LP Policy HOU9 II(e), suggesting that the appellant and his family could not integrate with the settled community as any 'settled community' is remote from the site.
50. The proximity of the appeal site to 'settlements' is dealt with above under sustainability. Nevertheless, the Council's late objection on this basis is based on conflating 'settled community' and 'settlement'. It is well established that with regard to gypsy and traveller policy the term 'settled community' refers to the wider non-traveller community. There is no constraint on the appellant and his family using the same facilities such as shops, garages pubs etc. as the local settled community in the vicinity. There is no conflict with LP Policy HOU9 II(e).
51. Before the Inquiry, doubt was cast on whether the appellant satisfied the definition of gypsy or traveller in PPTS. The Council continued to suggest that, in order to benefit from LP Policy HOU9 on the provision of gypsy and traveller sites, it is necessary for the applicant to be a gypsy. This is clearly not the case. Any developer can seek planning permission for a traveller site and the status of the applicant only becomes relevant if personal circumstances tip the balance and a personal permission, in addition to a generic 'gypsy & traveller occupancy condition' was appropriate.
52. Nevertheless, Mr Jarman, giving evidence for the Council, accepted that Mr Cash qualified as a 'PPTS gypsy'.
53. The Friends of Rowney Lane contended that the appeal site was being used for commercial purposes including the sale of animal feeds, involving movements and siting of heavy goods vehicles. The appellant explained that he had allowed another party to keep a small number of horses on the site and it appeared that that person had been operating a business from the premises, without his permission, during his time travelling for work. Any such use had ceased. Regardless, the enforcement notices did not allege any commercial use nor did the planning application include such use. Any planning permission granted by virtue of the appeals would not include commercial use and conditions could preclude such use or the parking of vehicles above 3.5 tonnes. Very little weight has been afforded to this matter in the determination of the appeal.

Need for Gypsy Sites in East Hertfordshire

54. It is the Council's contention that there is no unmet need, as identified in the GTAA, and that sufficient sites have been allocated in the Development Plan to meet the need of the travelling community. However, the appellant disputed the Council's figures.
55. The Council argued that it was not appropriate for the appellant to dispute the findings on supply which were found to be robust by the Inspector conducting the Examination in Public of the Development Plan and that if the appellant wished to dispute the findings he should have done so at the examination stage. That is not so, any appellant is entitled to question the 5 years supply position regardless of whether an examination Inspector has found the figures to be robust.

56. It was clear during cross-examination that of the 18 families identified in the district 4 (22% of the identified population) were not interviewed and their future needs were not identified or catered for.
57. Of the 18 families 10 were 'cultural' families that did not meet the definition in PPTS in that they were not travelling. No provision was made for population growth from those families as it was assumed the children would not adopt a travelling lifestyle.
58. No provision was made for families currently on unauthorised pitches.
59. Whilst there is an identified household need for a total of 5 pitches emerging from existing sites at Esbies and The Stables these are discounted by 50% on the basis of half the emerging families moving out of the area.
60. Based on the above it is reasonable to conclude that the Council has underestimated the need for pitches arising over the next 5 years.
61. The appellant proposes that the need arising should be a minimum of 14 pitches (4 from the unlawful pitches at Esbies and 10 arising from household formation from the 8 families meeting the PPTS definition. It is further suggested that household formation from the 10 'cultural' families and the 4 families who were not interviewed should be added.
62. The need arising is likely to be somewhere between that considered by the Council, which disregards some specific factors, and that put forward by the appellant. It is reasonable to conclude, therefore, that the Council's provision is unlikely to meet the emerging need and that there is as a result an unmet need for gypsy and traveller pitches in East Hertfordshire. That is a matter of substantial weight in the determination of the appeal.

Alternative Sites

63. All parties accepted that there are no available public sites in the district, and that all private sites, which would not in any event be available to the appellant, are full.
64. It was suggested by the Friends of Rowney Lane that, as a named individual in the occupancy condition on the planning permission for his father's site at Tom's Lane, the appellant could occupy a pitch there. It was undisputed at the Inquiry that there are more individuals listed in the condition than could lawfully occupy the site and that the site was currently full. There is no pitch available to the appellant at Tom's Lane.
65. Whilst it is not incumbent upon the appellant to demonstrate that he has made all reasonable efforts to obtain a lawful site it was clear that he has attempted so to do and has been on the waiting list for a public site in Hertfordshire for some time with no prospect of being accommodated in the near future, according to the Hertfordshire Gypsy Section Head.
66. Additional sites may become available in the longer term within Birchall Garden Suburb, a potential development straddling the border with Welwyn Hatfield Borough, subject to that development proceeding. However, there is no certainty as to any timescale and no gypsy pitches would be available to the appellant within any reasonable timescale. (See also section on 'Temporary Permission'.)

67. The lack of available and suitable sites is a material consideration of weight in favour of the appellant.

Personal Circumstances

68. In the event that planning permission for a generic gypsy and traveller site is not justified then the personal circumstances of the appellant and his family are a material consideration to be taken into account if considering a personal planning permission.

69. The appellant and his wife have a very young daughter and the appeal site would enable consistent access to medical services and, at the appropriate stage, to educational services. It has been established that the best interests of children is a primary consideration with no other consideration being inherently more important.

Human rights

70. As regards Article 8 of the European Convention on Human Rights the appellants and their children are currently living on the appeal site, albeit without the benefit of planning permission, and dismissal of the appeals would be likely to result in their removal from the site and interference with their home and private and family life. It is necessary to consider whether it would be proportionate to refuse planning permission in all the circumstances of the case.

71. The need to maintain a gypsy lifestyle is an important factor in the decision making process. Those gypsies without an authorised site face difficulties in endeavouring to continue their traditional way of life within the law. There is no site currently available within East Hertfordshire and that lack of alternatives makes any interference with the appellants' private and family rights more serious. This is a matter of substantial weight in consideration of a personal permission.

Temporary permission

72. Where a permanent permission is not justified the lack of alternative available sites and the likelihood of suitable sites becoming available in the foreseeable future a temporary permission, resulting in lesser harm by virtue of its temporary nature, may be appropriate.

73. The need for all sites within East Hertfordshire identified in LP Policy HOU9 for provision up to 2027 arise from identified need other than that of the appellant. Should Welwyn Hatfield Borough Council bring forward the Birchfield Garden Suburb, spanning the border with East Hertfordshire, a further two pitches would be available to East Hertfordshire before 2027 but these would be to meet the needs of families on unauthorised pitches at Esbies. It is clear, therefore, that circumstances will not change so as to make provision of an alternative site within the foreseeable future so as to render a temporary planning permission appropriate.

Overall Balance and Conclusions: Appeal C, Appeal A ground (a) and Appeal B ground (a)

74. As reasoned above, the appeal site is not in an unsustainable location in terms of national policy, as expressed in PPTS, or LP Policy HOU9. There is no conflict with the Development Plan in this respect.

75. Limited harm is caused to the character and appearance of the countryside. However, PPTS acknowledges that gypsy and traveller sites are acceptable in principle within the countryside and that a degree of harm in this respect is inevitable.
76. Paragraph 193 of the National Planning Policy Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
77. In addition, Paragraph 194 explains that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
78. As reasoned above, some limited harm to the setting of Rowney Priory results from the appeal development. However, given the distance from the Priory and the scale of the development, the development does not adversely affect the significance of the designated heritage asset itself, namely its visual appearance and historic interest.
79. Nevertheless, the limited harm to the setting carries considerable weight to which must be added the limited weight attributable to harm to the character and appearance of the countryside and the weight attached to intentional unauthorised development.
80. As reasoned above, despite the case for the Council, there is an unmet need for gypsy and traveller sites within East Hertfordshire. The provision of a permanent gypsy pitch at the appeal site would be a public benefit of substantial weight.
81. Given the importance given in the National Planning Policy Framework to the protection of heritage assets the provision of a single permanent pitch *per se* would not outweigh the albeit limited harm to the setting of Rowney Priory.
82. Nevertheless, considerable weight also falls to be attached to the personal circumstances of the appellant and his family who have had an established need for a permanent home and have made reasonable attempts to secure one.
83. The appeal site would afford a stable base from which to access health care for the family and the future educational needs of their daughter. Access to health care and education is clearly in the best interests of the daughter. The best interests of the child are a primary consideration and, whilst not in themselves, determinative, it is established that no other factor can be given greater weight. In this case any limited harm to the setting of Rowney Priory cannot carry greater weight than the best interests of the new-born daughter of the appellant.
84. The best interests of the child, added to the public benefit of the provision of a single gypsy pitch, reducing the unmet need, and the private interests of the appellant in the provision of a stable and secure base for him and his family outweigh the limited harm identified above.

85. For the reasons given above, and taking account of all material matters raised, the appeals should be allowed and planning permission granted for change of use of land from use for stabling/keeping horses to a mixed use for stabling/keeping horses and as a residential caravan site for one gypsy family including stationing of one mobile home, one touring caravan, laying of hardstanding, improvement of existing access and installation of septic tank.

Overall Conclusion Appeal A

86. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on grounds (f) and (g) does not therefore need to be considered.

Overall Conclusion Appeal B

87. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

Overall Conclusion Appeal C

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

Conditions

89. A condition restricting occupation of the site to gypsies and travellers is necessary as the residential use of the site is only justified on the basis of the policies in PPTS.
90. As the personal circumstances of the appellant are a determining factor a condition restricting occupation of the site to named individuals is also necessary.
91. A condition restricting the number of caravans on the site to a maximum of one static caravan/mobile home and one touring caravan is necessary in the interests of visual amenity.
92. A condition requiring the development to be completed in accordance with approved plans is necessary in the interests of proper planning.
93. A condition requiring the submission, approval and implementation of a site development scheme covering layout, access, landscaping, external lighting and foul and surface water drainage is necessary in the interest of visual and environmental amenity.
94. A condition requiring the replacement, as necessary, of trees or plants forming part of the approved landscaping is necessary in the interest of visual amenity as is a condition preventing commercial activity or the parking of vehicles over 3.5 tonnes.

Andrew Hammond

Inspector



Plan B

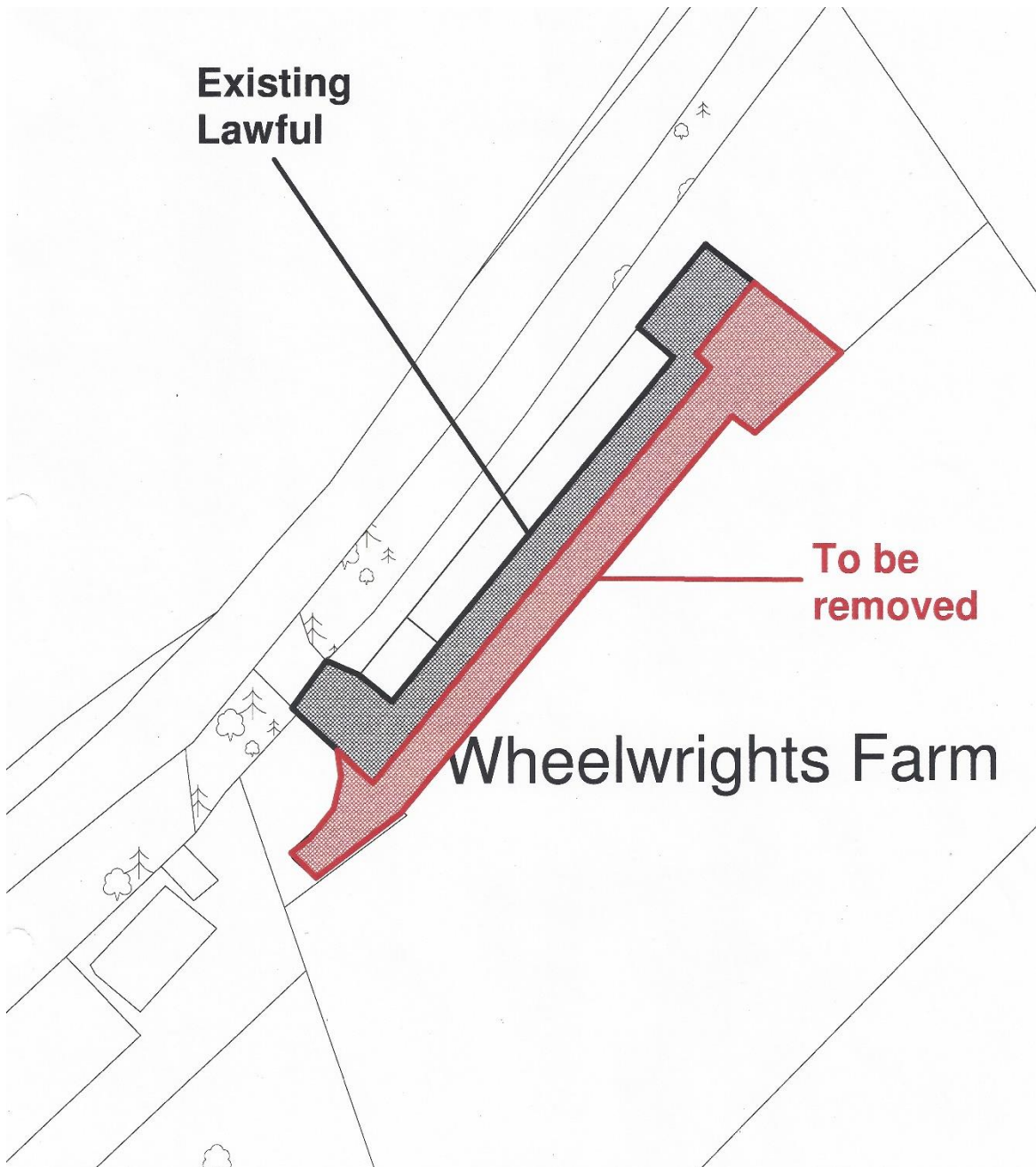
This is the plan referred to in my decision dated: 28 March 2019

by **Andrew R Hammond MA MSc CEng MIET MRTPI**

Land at: Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY

Reference: APP/J1915/C/17/3174668

Scale: not to scale



APPEARANCES

FOR THE APPELLANT: Mr Michael Rudd of Counsel

He called: Mr Philip Brown, P Brown Associates
Mr James Cash, Appellant

FOR THE LOCAL PLANNING AUTHORITY: Mr Killian Garvey of Counsel

He called: Mr Simon Dunn-Lwin, East Herts DC
Mr Steve Jarman, Opinion Research Services

FOR THE Friends of Rowney Lane: Mr Richard Langham of Counsel

He called: Mr Stephen Boniface
Mr Michael Hearn
Mr Martin Dewhurst
Mr D Abbott

INTERESTED PERSONS:

Ms E Gregg-Smith, local resident
Mr David Lang, local resident
Ms Jaqueline Scott, local resident
Ms Kate Harwood Hertfordshire Gardens Trust

Appendix A Schedule of Conditions

- 1) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: James Cash and Julie Donna Cash.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 3) When the land ceases to be occupied by those named in condition 1 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.
- 4) No more than 2 caravan(s), as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time.
- 5) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; the layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas; tree, hedge and shrub planting and where appropriate earth mounding including details of species, plant sizes and proposed numbers and densities; together with the restoration of the site to its condition before the development took place, when the site is no longer occupied by those permitted to do so, (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 6) If, within a period of 5 years from the date of planting, any tree or shrub planted as part of the landscaping approved under Condition 5 (or any tree or shrub planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation.
- 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 8) No commercial activities shall take place on the land, including the storage of materials.

End of Schedule of Conditions



Costs Decision

Inquiry Held on 15 May, 22 October, 26-29 November 2018 and 11 January 2019
Site visit made on 15 May 2018

by Andrew R Hammond MA MSc CEng MRTPI

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

Decision date: 28 March 2019

**Costs application in relation to Appeals Ref: APP/J1915/C/17/3174667; APP/J1915/C/17/3174668; and APP/J1915/W/17/3177630
Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 OJY.**

- The application is made under the Town and Country Planning Act 1990, sections 78, 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr James Cash for a partial award of costs against East Hertfordshire District Council.
 - The inquiry was in connection with appeals against enforcement notices alleging change of use of land to a mixed use of stabling/keeping of horses and the stationing of caravans/mobile homes on the land for residential use and associated operational development; and an appeal against the refusal of planning permission for change of use of the land to a mixed use for stabling/keeping of horses and as a residential caravan site for one gypsy family including stationing of one mobile home, one touring caravan, laying of hardstanding improvement of existing access and installation of septic tank.
-

The submissions for Mr James Cash

1. The application was formally produced in writing and submitted that the adjournment of the Inquiry on 15 May 2018 was necessitated by the Council's unreasonable behaviour in failing to produce substantive evidence until the week before.
2. As a result, the appellant was caused wasted costs in the form of attendance on 15 May of his planning consultant, his advocate and himself.

The response by East Hertfordshire District Council

3. The Council confirmed in closing submissions that it did not resist the application for a partial award of costs.

Reasons

4. The Planning Practice Guidance advises that 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.
5. The Council had accepted that the failure to produce evidence in accordance was as a result of an 'administrative error'. The timing by which the evidence was provided was such that the appellant was disadvantaged and there was no option but to adjourn to a future date.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Decision

7. The application for an award of costs is allowed in the terms set out below.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that East Hertfordshire District Council shall pay to Mr James Cash, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in attendance on 15 May 2018; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to East Hertfordshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A R Hammond

Inspector



Appeal Decision

Inquiry Held on 19-22 March 2019

Site visit made on 22 March 2019

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th May 2019

Appeal Ref: APP/J1915/W/18/3212628

Hertford Golf Course, London Road, Hertford, SG13 7NS

- 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 Belview Golf Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1867/FUL, dated 8 August 2017, was refused by notice dated 29 March 2018.
 - The development proposed is described as the change of use from agricultural land to golf course; erection of golf club house with bar, restaurant, changing and pro shop facilities; incorporation of a water harvesting scheme for sustainable irrigation and an improved drainage system through the importation of recovered soils; upgraded practice facility including covered practice bays; and enhanced landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural land to golf course; erection of golf club house with bar, restaurant, changing and pro shop facilities; incorporation of a water harvesting scheme for sustainable irrigation and an improved drainage system through the importation of recovered soils; upgraded practice facility including covered practice bays; and enhanced landscaping at Hertford Golf Course, London Road, Hertford, SG13 7NS in accordance with the terms of the application, Ref 3/17/1867/FUL, dated 8 August 2017, subject to the conditions in Annex A.

Procedural Matters

2. The description of development was amended from the original application form and agreed with the Council. This is reflected in the decision notice, appeal form and Statement of Common Ground (SOCG). Accordingly, I have taken the description of development from the SOCG.
3. A set of plans was submitted with the appeal. These plans sought to align the information across a number of the plans with the revised grading plan that had already been submitted to the Council as part of the application process. One of the plans is an updated phasing plan. However, it was suggested at the inquiry that this could be dealt with by condition. I have considered this in my decision. Therefore, I am satisfied that no parties' interests would be prejudiced by my taking the additional plans into account. The appeal is considered on this basis.

4. The Council's reasons for refusal did not refer to policies from the development plan. Since the Council made its decision the East Herts District Plan (DP) has been adopted. I have been provided with policies from the plan in the evidence from the main parties.

Background and Main Issues

5. There are previous consents for the site that were referred to at the inquiry. These are an outline and reserved matters¹ planning application for an 18 hole pay and play golf course and clubhouse and ancillary building and facilities. A subsequent planning permission was granted for a Greenkeeper's dwelling² that has been erected. Notwithstanding the Council's reason for refusal and the potential fallback position associated with the previous consents I have dealt with the scheme in its totality as set out in the description of development.
6. Accordingly, the main issues in the appeal are:
- Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (The Framework), including the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on highway safety; and
 - 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 within the Green Belt.

Reasons

7. The Framework contains national Green Belt policy. DP Policy GBR1 effectively defers to the Framework. Paragraph 133 of the Framework is clear 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*'. It is common ground that the relevant parts of the Framework are paragraphs 145 (b) and 146 (b) & (e). These exceptions require schemes to preserve the openness of the green belt and not conflict with the purposes of including land in it. Therefore, whether the scheme would be inappropriate or not turns on the effects on openness. Therefore, I have considered the elements of the appeal scheme and the effect they would have on openness.

Operational development - proposed importation and earthworks

8. As presented at the inquiry the areas of dispute focus on the effects that would arise from the importation and re profiling as a result of the implementation of the appeal scheme. In particular, the Council's reason for refusal specifically refers to the importation of material and land level changes. The material would be required to facilitate the earthworks associated with creation of the rainwater harvesting system and an 18-hole golf course layout. The appeal scheme would lead to changes to the topography of the site in the areas described as the 'eastern field' and 'western field'. There would be two 'water

¹ LPA Refs 3/03/0161/ON & 3/05/0721/RP

² LPA Ref 3/10/0979/FP

- harvesting zones' created with one in each of the areas. These would include water harvesting basins and storage ponds.
9. At the inquiry the evidence of the landscape witnesses was focussed on the visual impacts of the scheme in order to inform an understanding of the effect of the visual changes arising from the scheme on openness. It is in this context I have used this evidence to inform my consideration of the case. The landscape witnesses agreed that the baseline for assessment could be the existing and the existing plus the extant planning permission. Nonetheless I have based my initial assessment of the effect of the appeal scheme. Specifically, consideration of the change from a field landscape to a golf course landscape. The western part of the site falls within the 'Bayfordbury, Brickendonbury and Balls Parkland' Landscape Character Area and the eastern area within 'Hertford Heath'. Some of the key characteristics of these areas are undulating parkland and farmland landform. There are trees and woodland areas as well as irregular and irregular to medium field patterns.
 10. The western field would be re profiled for water harvesting only. The plans show the boundary of the harvesting zone. It would not cover the entirety of the western field area and would not encroach into the northern area. This part of the site already has a natural gradient and I heard at the inquiry and was able to see on site how the scheme would utilise this break of slope. The submitted plans, viewpoint analysis and section drawings demonstrate that the scheme would create gentle slopes. In this regard the change in land levels would not be significant. Furthermore, the re profiling would not create sharp or prominent features. Accordingly, I find that this element of the scheme would preserve the openness of the Green Belt and would not conflict with purposes of including land in it.
 11. The eastern area of the site would also include regrading. This area would also include buildings, which I deal with separately below. In terms of the effects of importation the eastern field would also be re profiled to create an undulating landform that would allow the creation of further rainwater harvesting and storage. In this area the changes in levels would be greater than the western area. Nevertheless, the land falls away from London Road. The changes would not harm the sense of an undulating area that gently falls away from the road. In addition, these changes would not create harsh or intrusive features. Therefore, I find that they would preserve the openness of the Green Belt and would not conflict with purposes of including land in it.
 12. I have found that the re profiling to form the golf course would not harm openness and would reflect the mainly undulating landscape characteristics. This is reinforced by the limited long range views. As such whilst I appreciate that the landscape would not be entirely unchanged it would be preserved, and the appeal scheme would not truncate views. Closer to the site the scheme would be visible from some points on the public rights of way³. Nonetheless, to the south views of the re profiling in the western field would be at a distance or woodland would intervene. Views of the eastern field would be closer but dispersed by the location of the footpath behind existing trees and hedgerow. Therefore, having considered the submitted plans and walked the site and its surrounds on the site inspection I am satisfied that the design of the course would respond to the existing landscape setting. The course layout would

³ Appendix 3 Mr Denney Proof of Evidence

utilise the levels and would not result in excessive areas of unduly prominent changes to the undulating ground. Overall, the course layout of approaches, greens and bunkers would preserve openness.

13. The Council submitted that there would be visual effects on openness resulting from the amount and duration of construction. In particular the number of HGVs, the haul road and construction compound. The appellants are clear that the scheme would be constructed in a phased manner. Whilst this can be agreed as part of a planning condition it is clear that a two phase approach is preferred.
14. The haul road would be located broadly to the north of the site and extend into both the western and eastern areas. The plans show that a compound could be positioned close to the access point. Within the overall site area, the size of the compound would not be substantial, and its final position could be agreed using an appropriately worded condition. The HGV movements would be frequent for the duration of the importation phase. I appreciate that the vehicles would not be small and would therefore be visible at some points along the haul road. The Highways evidence suggests that based on the number of loads per day the phasing could be anything between 5-18 months. The use of a condition gives the Council control on the maximum number of movements (5 months) and clearly if there are fewer movements then the phasing would be over a longer duration. Either way the duration of the HGV movements would not be unreasonable in my view to enable the construction of the golf course and this would not be a long-term effect. In addition, I am satisfied that the appellants have demonstrated that the haul road and compound could be located to minimise the impact. Furthermore, these operations would be intrinsically linked to the provision of the golf course scheme. In this regard I agree with the appellants that it is reasonable to take a broad view and that these construction elements, which have a clear purpose linked to the development of the site as a golf course, would preserve openness.

Operational development - buildings

15. There are a number of buildings in place on the site already, in particular a maintenance building, green keepers house and a car park. A club house has already been consented and it remains part of the appeal proposals. Its physical form would not change but the internal layout has been amended. Nonetheless, the appellants confirmed it would be built at grade and its location would be where the levels would allow it to be tucked into the site close to other buildings and the car park area. In addition, the Council's reason for refusal focussed specifically on the amount of importation and the associated land level changes. There was no suggestion that the clubhouse, car park, green keepers house or maintenance building would be works that would not be expected within a golf course development. I have no reason to disagree.
16. The appeal scheme would add covered practice bays to the layout. The Council raised the issue of the level changes around the new covered practice bays. This is shown on the plans as a small area of fill to form a flat base. The structures are described by the appellants as low monopitch timber structures. They would be simple and due to their design and appearance would not be intrusive. The inquiry was told that there is no intention to flood light them or provide netting. Nonetheless, lighting could be controlled by condition.

Furthermore, as with the other structures they are a form of operational development that would not be unexpected with a golf course.

17. The Council has drawn my attention to other appeal decisions⁴. The Epping Road scheme was found to be inappropriate as the judgement of the Inspector was that, unlike my view of this scheme, the changes proposed were significant. In the case submitted as ID12 the concern of the Inspector regarding the road was that it would be wide and over a substantial distance without a clearly identified use or purpose associated with it. This is clearly distinct from the operational development associated with the appeal scheme which has been clearly shown to be linked to the land use applied for. Therefore, having considered the operational development outlined in the preceding paragraphs in its entirety as part of a scheme for a golf course, for the reasons set out above, I consider that it would preserve openness.

Conclusion on whether inappropriate

18. Overall, I have considered the nature of the various components of the scheme and their purpose in association with the golf course use, which itself can be considered not inappropriate in the Green Belt. Due to their purpose, scale and location the spatial and visual impacts arising from the totality of the scheme would preserve the openness of the Green Belt in this location. I therefore conclude that the scheme would not be inappropriate development in the Green Belt and would therefore accord with paragraphs 145 (b) and 146 (b) & (e) of the Framework and DP Policy GBR1.

Highway safety

19. The reason for refusal refers to the additional traffic movements arising from the proposal and the effect of this on the highway safety of road users and pedestrians. In considering this the Council advanced at the inquiry its concerns regarding the forward visibility for vehicles, in particular for those turning right into the site. The access would be taken from the London Road which is a B class road that provides a link to and from the A414. It is subject to both 30 and 40 mph speed limits. The speed limits at the site access point being 40 mph. A footway exists along the road between the A414 and Hertford Heath.
20. There was a significant amount of discussion regarding the position of the access to the site. In particular whether in its current location it was in fact permitted in accordance with the previous consents. Nonetheless, the scheme as applied for, and before me for consideration would be accessed from the point shown 'as built'⁵ on the submitted plans. Therefore, I have considered this access on its merits as submitted to serve the appeal scheme.
21. The access as built has been designed in accordance with the Design Manual for Roads and Bridges (DMRB). It has also been subject to a road safety audit and adopted by the Local Highway Authority (LHA). There was no dispute that the design speed dictates the forward visibility. The appellants advised that a 40-mph design speed was agreed with the LHA and the requirement for visibility at this speed would be 120m. The LHA did not object to the appeal scheme.

⁴ ID12 – APP/P0240/W/17/3174328; APP/Z1585/A/10/2142721

⁵ Plan 820.71

22. The Council expressed its concern that both its and the appellants speed surveys demonstrate that there would be a requirement for greater visibility. More specifically that there is a bend in the road for vehicles on approach to the access and that when approaching vehicles are travelling faster that there is a need for turning vehicles to be able to see further ahead. The Council's contention being that the actual forward visibility available, which they state is 119m⁶, would not be adequate. The appellants provided a further calculation of forward visibility⁷. This is taken from the point where a vehicle would begin turning into the site access and is given as 128m. Therefore, at a design speed of 40 mph the access could provide adequate forward visibility.
23. The final point to consider is whether the higher speeds should be considered as the Council suggest. There was agreement that the speed surveys show an 85% dry weather speed of 48.4 mph and that the derived wet weather speed from that would be 45.9 mph. The requirement for forward visibility from this was given as 130m. The Council contend that the design speed should allow for the fact that drivers will speed and therefore there should be an increase the requirement for visibility.
24. The appellants have been given advice from the LHA regarding design speed and propose an access that would accord with that requirement. I appreciate that the speed surveys show that drivers do speed on this stretch of road. I can also understand that the Council is seeking to consider the actual conditions on the road. Nonetheless, when considering speeding traffic in wet conditions the forward visibility of 128m would be very close to the 130m requirement for a trunk road. London Road is a B Class road and as such I consider that, given the 40-mph design speed requirement would be met in any event, it is reasonable to accept this limited deviation from the guidance for a higher design speed in this case.
25. When initial re grading took place at the site the appellants point out that about 12 400 cubic metres of material was imported over a period of about 5 months. This is estimated to have been about 20-30 lorry movements per day. Since the application was submitted the amount of fill material has been reduced as a result of the amendments to the reprofiling scheme. Therefore, the appeal proposal would now involve the importation of about 176 666 cubic metres of inert material to form the golf course. The evidence to the inquiry indicates that this could be over a period of 5 - 18 months. During the 18-month time period it is submitted that there would be about 32 loads or 64 movements per day (although the initial Transport Assessment considered up to a maximum of 120 loads per day, which broadly reflects a 5-month duration). Overall, the evidence presented demonstrates that, with a phasing arrangement in place, a realistic level of movements to meet either of the phasing scenarios could be accommodated and access the site without harm to highway safety.
26. The reason for refusal focussed on the importation activity. However, the Council also submitted that the site has not operated as a golf course and that an increase in use of the site has not been substantiated or tested. It suggested in its highways evidence that the proposals, through an increase in operations at the site, would add to safety issues and concerns. Nevertheless, no substantive evidence was advanced at the inquiry that would suggest that

⁶ Appendix E Mr Hanks Proof of Evidence

⁷ Appendix E Mr Hutchings Rebuttal using information from Appendix G of Mr Hanks Proof of Evidence

use of the access for the golf course use once the importation has ceased would be detrimental to highway safety. Furthermore, there is very limited information that suggests there are in fact significant safety issues or concerns at present. The LHA has confirmed⁸ that accident data indicates that the area around the junction is operating with a low collision record. In addition, whatever view is taken on the issue of the extant consent as a fallback, it is not in dispute that the access operated without accident for about 2 years.

27. There was no dispute that the footway on London Road is well used. The concern of the Council and interested parties was about lorry movements from both the appeal scheme and in combination with the nearby business park during the times that travel to local schools would be taking place. A condition was suggested that would limit the hours of operation for HGVs in the term time of the nearby schools. I am satisfied that, given the low collision record, such an arrangement would be reasonable and enforceable in this case.
28. I therefore conclude that the appeal proposal would not have a harmful effect on highway safety. It would not conflict with DP policy TRA2 which amongst other things requires new development to be acceptable in highway safety terms and to ensure that safe and suitable access can be achieved.

Other Matters

29. There was a significant amount of discussion regarding the fallback position that the appellants submit exists due to the extant planning permissions. I appreciate that it is the Council's position that this is not the case as it considers that condition 8 of 3/03/0161/GN has not been complied with. However, in this case I have found that the appeal proposal as a whole would not be inappropriate development in the Green Belt. As such there is no requirement to consider whether very special circumstances exist.
30. I have carefully considered the additional comments (not discussed within the main issues) made by interested parties regarding landfill operations, lorry queuing, demand for a golf course and the effect on heritage assets.
31. There has been concern from interested parties that the re profiling of the site would necessitate the importation of landfill waste. There is no evidence to substantiate this and the appellants supplementary information⁹ provided to the inquiry makes clear that this is not a landfill scheme. There is no objection from the Environment Agency who would be responsible for issuing a permit to govern the amount and quality of imported inert material should it be required. The Agency's permitting regime sits outside of the planning system, but I have no evidence that would lead me to conclude that the importation of the proposed volumes of inert waste would be harmful to the environment or human health more generally such that it is likely that a licence would not be issued. As such this would not form a reasonable basis for dismissing the appeal proposal.
32. There is concern that lorries have in the past queued on approach to the site and I was provided with photos showing this scenario. I appreciate that these issues are of concern to near neighbours. However, I have no evidence from the LHA or the highway witnesses that would suggest that it is likely that queuing vehicles would be a recurring issue should the scheme go ahead. In

⁸ Email from Mr Sowerby Appendix G Mr Hutchings Rebuttal

⁹ ID6

addition, the phasing and lorry movements are subject to detailed conditions and I am satisfied that these offer reasonable controls.

33. I was provided with evidence regarding the need for this particular type of golf course in this location. It was suggested by an interested party that golf as a sport was in decline. By contrast the appellants witness on this topic referred me specifically to information about drive times, population, market need and the pay and play experience. This information in itself is not determinative and neither view alters my assessment of the main planning issues in this case.
34. I was referred to the nearby listed building (Grade I) and registered park and garden (Grade II) at Balls Park and the listed building Jenningsbury Farm (Grade II). Heritage issues did not form part of the reasons for refusal of the Council. However, as part of my site inspection I was able to view the site from Harrison Lane and across the Balls Park parkland¹⁰. I am satisfied that distance between these points and the scheme is such that there would not be a harmful effect on the setting of the listed buildings or the registered park and garden.

Conditions

35. I have considered the conditions put forward and discussed at the inquiry against paragraph 55 of the Framework, the Planning Practice Guidance and where necessary I have amended the wording in the interests of precision. Conditions 1 & 2 are required because they set the necessary time limit and the approved plans as this provides certainty. Following the inquiry session on conditions it is my view that the inclusion of the detail of the construction compound and welfare facilities within condition 7 would allow the Council to consider and agree a suitable location. As such it is not necessary to include this plan in the list in condition 2.
36. Conditions 3, 4, 5, 6 and 12 are necessary to protect the character and appearance of the locality. Conditions 7, 8, 14, 15 & 17 are necessary to ensure that the construction process is controlled and in the interests of highway safety. Condition 15 would also protect the living conditions of existing occupiers of nearby properties. Condition 9 is required to secure the programme of archaeological works. Conditions 10, 11 and 18 are necessary to secure the details and implementation of the drainage strategy and surface water drainage system. Conditions 13 and 16 would ensure that there would not be harm to protected species and ecological value of the site.
37. I have amended condition 18 to require the measures to be carried out prior to the first use of the golf course and I have deleted the tailpiece. The Council suggested a condition regarding the levels of the clubhouse and practice bays over and above the submitted plans. The grading plan and section drawings form part of the approved plans condition. Therefore, I do not consider that an additional condition is necessary.
38. A condition was initially suggested by the Council to restrict the use of the clubhouse building. At the inquiry session the Council withdrew this condition. This was based on the discussion that confirmed that the clubhouse building would be used in connection with the use of the site as a golf course. This is the basis on which I have considered the building. It was agreed that any

¹⁰Ms Westover Proof of evidence Appendix Photographs 27 & 28

other use of the building that was over and above an ancillary function would not be within the scope of the appeal scheme.

Conclusion

39. The proposal would not be inappropriate development in the Green Belt and it would not have a harmful effect on highway safety. Therefore, for the reasons given and having regard to all other matters raised and subject to the conditions outlined above the appeal is allowed.

D J Board

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Simon Aley

Solicitor to the Council

He called
Anne Westover
Nathan Hanks
Nik Smith

Essex County Council
Transport Planning Associates
Consultant to East Herts District Council

FOR THE APPELLANTS:

Giles Cannock QC

Instructed by Peter Nesbit, Eversheds Sutherland
(International) LLP

He called
Brian Denney
Richard Hutchings
Mark Smith
Karl Craddick

Senior Director, Pegasus Planning Group Limited
Director, WSP Limited
Owner, Smith Leisure
Savills

Also present
Bruce Weller
Peter Nesbit
Kirsty Smith
Laura Power
Frances Horne

Weller Designs
Eversheds Sutherland
Eversheds Sutherland
Eversheds Sutherland
Pegasus Group

INTERESTED PERSONS:

Tony Rubino
John Rubino
Suzanne Rutland Barsby
Stephen Wansell
Patsy Bamford
Martin Berry

Ward Councillor

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Appendix to Mr Hutchings Proof of Evidence
- 2 Statement of Common Ground
- 3 Schedule of plans
- 4 Opening statement of behalf of the appellants
- 5 Opening statement on behalf of the Council
- 6 Statement from Weller Design
- 7 Weather graphs for Hertford September, November & December 2018
- 8 DMRB 9/93
- 9 Hertfordshire County Council flow chart of technical approval process
- 10 Extract from the Highway Code, stopping distances
- 11 BBC News Article – Climate Change: Water Shortages in England 'within 25 years'
- 12 Appeal decision APP/P0240/W/17/3174328
- 13 Europa Oil and Gas Limited v Secretary of State for Communities and Local Government, Surrey County Council, Leath Hill Action Group
- 14 Hart Aggregates v Hartlepool Borough Council
- 15 Disputed conditions
- 16 Site visit note
- 17 Refinements to agreed conditions
- 18 Council's closing submission
- 19 Appellant's closing submission

DOCUMENTS SUBMITTED AFTER THE INQUIRY

- 20 Consolidated planning conditions document following conditions session at the inquiry
- 21 Appellant's written agreement to pre commencement conditions

Annex A – Conditions

1. The development hereby permitted shall commence before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 820.61 Rev B; H1688 41 C; H1688 200; 820.54 Rev B; 820.58 Rev B; 820.63 Rev B; 820.78a; 820.78b, 820.78c, 820.78d, 820.78e & 820.78f.
3. No construction of the clubhouse or practice bays shall commence until details of the external appearance, including samples of materials to be used in their construction and details of any associated car parking have been submitted to and approved in writing by the Local Planning Authority. The clubhouse and practice bays shall be constructed in accordance with the approved details.
4. Notwithstanding the submitted plans, no development shall commence at the site before full details of both hard and soft landscape have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - Hard surfacing materials
 - Hard boundary treatments and other means of enclosure
 - Retained historic landscape features and proposals for restoration
 - Planting plans noting schedules of plants with planting sizes and proposed numbers/densities.
 - Details of how existing and proposed water courses would be incorporated into the landscaping scheme
 - Details of trees to be removed and retained and details of how retained trees would be protected during construction
 - Timetable for the implementation and completion of the landscape scheme

The development shall be carried out in accordance with the approved scheme. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved.

5. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved by the local planning authority prior to the prior to the first use of the site as a golf course. The landscape management plan shall be carried out as approved.
6. No development shall commence until details of all external lighting proposed at the site has been submitted to and approved in writing by the Local Planning Authority. The details shall show the locations, design and luminance levels of the lighting proposed together with the hours within which the lighting would be used. The details shall be implemented as approved.
7. No development shall commence at the site before a Construction and

Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction and Environmental Management Plan shall include the following:

- Details of phasing for the importation of material and construction works at the site;
- Details of construction vehicle movements and construction access arrangements, including numbers, routing and timings;
- Details of a means to monitor, record and confirm the inert materials being imported;
- Location and details of wheel washing facilities and details of the measures to be taken to ensure that the public highway is kept clean of any material that is deposited upon it;
- Details of soils importation contractors' compound, office and welfare facilities;
- Details of associated parking areas and storage of materials clear of the public highway;
- Details of the haul routes across the site and means of protection of natural features;
- Hours of on-site working;
- Details of proposed hoarding;
- Details to undertake best management practices for the impacts of noise, dust and air quality;
- Details of temporary facilities associated with the construction of the golf course.

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

8. All HGVs shall enter the site turning right from London Road and shall exit the site turning left onto London Road.
9. The development hereby permitted shall be carried out in accordance with the programme of archaeological work contained within the Written Scheme of Investigation dated January 2015.
10. No development shall commence at the site before a Surface Water Sustainable Drainage Scheme (SWSDS) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 - detailed engineered drawings of the proposed sustainable drainage features including their size, volume, depth and any inlet/outlet features and all corresponding calculations/modelling for the 1 in 1 year, 1 in 30 year, 1 in 100 year and 1 in 100 year + climate change rainfall events;
 - a site plan with the final topographical levels of the site;
 - details of any changes to the current surface water flow routes arising from the changes to the site levels and an assessment of their impacts on the ordinary watercourse which arise within and adjacent to the development site; and
 - details of any exceedance flow paths for rainfall events in excess of the 1 in 100 year + climate change rainfall event that are beyond the design capacity of the system.

The development shall be carried out in accordance with the approved scheme

prior to the first use of the site as a golf course.

11. Within one month of the completion of the Surface Water Sustainable Drainage Scheme the site operator shall provide infiltration test results for all areas where infiltration is being used as a mechanism to discharge surface water to the Local Planning Authority. In the event that the tests do not confirm the predicted infiltration rates, an alternative scheme or mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the site as a golf course.
12. Details of the location, amount and design of cycle parking at the site shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the site as a golf course. The cycle parking shall be provided in accordance with the approved details prior to the first use of the site as a golf course.
13. The development shall be carried out in accordance with the mitigation and compensation/enhancement measures set out within the submitted Ecological Assessment Report – Bi Annual Appraisal (August 2018).
14. There shall be no more than 120 two-way HGV movements using the access from/to London Road on any one working day. Written records of HGV movements in and out of the site shall be maintained by the site operator. Such records should be made available for inspection by the Local Planning Authority upon request.
15. Importation of inert material to the site shall only take place between the hours of 07:00 to 08:00, 09:15 to 15:00 and 16:00 to 17:00 Mondays to Fridays inclusive during the term-time operational periods of Simon Balle School. Importation of inert material to the site shall only take place between the hours of 07:00 to 17:00 Mondays to Fridays inclusive outside of term-time. Importation of inert material to the site shall only take place between the hours of 08:00 and 14:00 on Saturdays and shall not take place on Sundays or Public Holidays.
16. No development shall commence at the site before a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. This is to be based on the Ecological Assessment Report and approved Landscape Plan/s for the site. The Plan shall include details of:
 - i. The management prescriptions for the landscape and ecological features including existing trees, hedgerows, copses, watercourses, proposed planting, water features, rough grassland, wildflower areas, wetland and marginal planting; and
 - ii. Preparation of a works schedule for the management prescriptions.

The development shall be carried out in accordance with the approved Landscape and Ecological Management Plan.

17. No development shall commence until a Development Phasing Scheme is submitted to and approved in writing by the Local Planning Authority. The Development Phasing Scheme shall identify the sequence of the components

of the development including earthworks, the water harvesting scheme, landscape and planting works and buildings. The development shall only be carried out in accordance with the most recent Development Phasing Scheme approved in writing by the Local Planning Authority.

18. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment and Surface Water Management Strategy dated June 2017 and the following mitigation measures:

- a) provision of attenuation to prevent increase in surface water runoff volumes;
- b) implementation of the proposed drainage strategy which is based on attenuation and discharge into the ordinary watercourses;
- c) an updated detailed drainage plan showing all of the sustainable drainage system features to be implemented and the detail of the final discharge point into the ordinary watercourse; and
- d) limiting the surface water discharge from catchments A to E of the eastern side of the site (as shown on Figure 6 of the Flood Risk Assessment and Surface Water Management Strategy) to the ordinary watercourse at a rate equal to or less than 1 in 1 year Greenfield runoff rate.

The mitigation measures shall be fully implemented prior to the first use of the site as a golf course in accordance with the timing/phasing arrangement.

END



Appeal Decisions

Site visit made on 11 March 2019

by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st May 2019

Appeal A: APP/J1915/H/18/3202160

The White Lion, London Road, Sawbridgeworth, CM21 9EN

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Greene King Pub Co against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0106/ADV, dated 16 January 2018, was refused by notice dated 22 March 2018.
 - The advertisement proposed is installation of 1x replacement pictorial panel to existing gibbet.
-

Appeal B: APP/J1915/Y/18/3202161

The White Lion, London Road, Sawbridgeworth, CM21 9EN

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Greene King Pub Co against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0107/LBC, dated 16 January 2018, was refused by notice dated 22 March 2018.
 - The works proposed are installation of 1x replacement pictorial panel to existing gibbet.
-

Decisions

1. Appeal A: The appeal is allowed and advertisement consent is granted for the installation of 1x replacement pictorial panel to existing gibbet at The White Lion, London Road, Sawbridgeworth, CM21 9EN in accordance with the terms of application ref: 3/18/0106/ADV, dated 16 January 2018 and subject to the following condition:
 1. The development hereby permitted shall relate to the following approved plan: 133769.
2. Appeal B: The appeal is allowed and listed building consent is granted for the installation of 1x replacement pictorial panel to existing gibbet at The White Lion, London Road, Sawbridgeworth, CM21 9EN in accordance with the terms of application ref: 3/18/0107/LBC, dated 16 January 2018 and the plan, ref: 133769, submitted with it.

Preliminary Matters

3. The White Lion is a Grade II Listed Building dating from the C16 with later additions and lies within the Sawbridgeworth Conservation Area. Advertisement consent and listed building consent were sought for a replacement hanging sign to the front elevation of the property. The remit of

both regimes is different. However, the main issues I have identified below relate to either the advertisement appeal, the listed building appeal, or to both. To reduce repetition and for the avoidance of doubt, I have dealt with both appeals together within a single decision letter.

4. At the time of my site visit the proposed sign had already been installed. I have dealt with the appeal on that basis.
5. Since the applications were refused, the Council has adopted a new local plan, the East Herts District Plan, October 2018 (the District Plan). A new National Planning Policy Framework (the Framework) was also published in July 2018. I have referred to the policies in those documents, the most up to date policies, in my decision.

Main Issues

6. The main issues in this case are the effect of the proposal on the special architectural and historic interest of the listed building and, linked to that, whether the proposal would preserve or enhance the character or appearance of the Sawbridgeworth Conservation Area.

Reasons

7. The White Lion, a two-storey building constructed in red brick, lies in a prominent location at the junction of Bell Street and London Road, close to a pedestrian crossing. Situated at the back of the footpath, the building is highly visible in the public realm.
8. The significance, or special interest, of the building lies in its age, its architectural detailing and its history as a coaching inn. The list description sets out several features of architectural interest on the building and describes that west facing block to London Road, where the sign is located, as a 'splendid show front', an impressive C18 brick edifice reflective of the importance of stage coach travel in that period. The entrance door, the list description sets out, is set in 'a wide wooden Doric doorcase with rusticated pilasters and full entablature'.
9. The Sawbridgeworth Conservation Area Appraisal notes that the White Lion is a landmark building within the Conservation Area, a visually important building which makes a statement and holds an important corner position at the entrance to what was the medieval part of the town.
10. The hanging sign, which is externally illuminated, is a double-sided fret cut panel positioned above the entrance door. It features a traditional image of a lion and flag in 3D. The main part of the sign, excluding the bracket, extends from the cill of the first-floor windows to below the decorative cornice above the doorway.
11. The sign, which measures some 1400mm x 900mm, is not excessive and does not appear dominant, in terms of its size or scale, on what is a substantial and architecturally robust elevation. Moreover, whilst the sign hangs down over the door surround and the top of the doorway itself, given its slender profile it does not significantly obscure or visually distract from the detailed architectural elements of the elevation noted above.

12. I acknowledge the Council's point that the sign is not a traditional timber painted hanging sign. However, as a result of its fret-cut design, the sign has a visually 'lightweight' effect, which, in combination with the traditional image portrayed on it, ensures that it is neither overbearing on the frontage of the building or out of place in its context.
13. Consequently, whilst the proposal would not be consistent with all of the requirements of Policy HA6 of the District Plan relating to Advertisements in Conservation Areas, in that it is not a traditional hanging type sign, it is nevertheless sensitive to the architecture of the building on which it is located.
14. I note the Council's concern that a previous swan neck bracket has not been preserved. However, there is no detail or evidence of the significance of this bracket before me. The sign is attached to what seems to me to be a simply designed gibbet to which no objection has been raised.
15. Accordingly, the proposal does not have an adverse effect on the architectural or historical interest or significance of the listed building. In that respect the proposal is consistent with the requirements of Policy HA7 of the District Plan, which relates to listed buildings, paragraph 192 of the Framework which sets out the desirability of sustaining and enhancing the significance of heritage assets and paragraph 132 of the Framework which seeks to avoid poorly sited and designed advertisements. For similar reasons I am also satisfied the proposal preserves the character and appearance of the Conservation Area, consistent with the requirements of Policies HA1 and HA4 of the District Plan.

Conditions and conclusion

16. No conditions have been suggested in the event of the appeals being allowed. However, in order to provide certainty, I have specified the approved plan.
17. Therefore, on that basis, and taking into account all matters raised, the appeals are allowed.

S. Ashworth

INSPECTOR



Appeal Decision

Site visit made on 31 January 2019

by **G Ellis BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th May 2019

Appeal Ref: APP/J1915/W/18/3207094

Birch Farm Cottage, White Stubbs Lane, Bayford EN10 7QA

- 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 UK Salvo Developments Limited against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/0324/FUL, dated 9 February 2018, was refused by notice dated 10 April 2018.
 - The development proposed is the demolition of existing property and erection of new house and garage with associated parking
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the refusal of the application East Herts District Plan, October 2018, (EHDP) has been adopted. As such, policies HSG8 and GBC1 of the East Herts Local Plan Second Review April 2007 (EHLP) referred to in the decision notice are no longer in place.
3. The Council in their statement indicate that the relevant policies are now GBR1, DES2, DES3, TRA2, TRA3, and NE3 of the EHDP. These relate to a range of aspects including landscaping and parking. Given the reason for refusal is only on the grounds of impact on the Green Belt I have taken the relevant policy in that regard to be GBR1. The appellant has been given an opportunity to comment on the changes to the development plan.

Main Issues

4. The main issues are: -
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - If the proposal is inappropriate development, whether there are material considerations which, together, clearly outweigh the harm to the Green Belt and any other harm, and which amount to very special circumstances which would be necessary to justify the proposal.

Reasons

Inappropriate Development

5. EHDP policy GRB1 reverts to the National Planning Policy Framework (the Framework) for the consideration of planning applications in the Green Belt. The Framework indicates that the Government attaches great importance to Green Belts. All new buildings are to be regarded as inappropriate development subject to a small number of exceptions. These include *d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.*
6. The appellant has also referred to exception *g)* in relation to limited infilling or redevelopment of previously developed land. Both exceptions are potentially applicable to the replacement dwelling, but in order to apply both require an assessment in relation to the impact compared to that being replaced.
7. The scale of the increase is a matter of disagreement between the parties, with various figures having been referred to. The parties agree that the existing dwelling, which is a two storey house with a conservatory and attached garage has a footprint of 126.6 m², and a total floor area of 186.4 m². The appellant indicates that the replacement dwelling would be 194m² and 309m², respectively. The Council has much higher figures, but they also appear to include the detached garage. Notwithstanding the different measurements, even on the appellant's figures the replacement dwelling would be 53% larger in footprint and 47% in floor area. In my view with reference to these figures and the plans the size of the new dwelling would be materially larger.
8. The alternative assessment under exception (*g*) is that the proposed development will not have a greater impact on the openness. The Framework at paragraph 133 advises that openness is one of the essential characteristics of Green Belts.
9. The property is sited within a plot set back from White Stubbs Lane with an intervening area of trees. This screening is to be further reinforced by proposed planting. The existing dwelling is relatively modest in scale and faces towards White Stubbs Lane. The replacement dwelling is re-orientated 90 degrees towards Birch Farm Place, which comprises a recent development of three large detached properties and provides access to Brick Farm. While screening would limit views of the property by virtue of the scale of the development, which in addition to the house comprises a double garage, there would be an increase in the spread of built form at the site. Therefore, I find that the proposal would have a greater impact on openness than the existing development.
10. The appellant has also provided figures based on the property with extensions which could be constructed under permitted development rights (PD). However, this is not a matter which effects my assessment in relation to whether the development is inappropriate development. The comparative assessment is as set out in the Framework with the building ***it replaces*** under criterion (*d*) and ***existing development*** under criterion (*g*). I shall though in any event examine the permitted development fall-back position under the 'Other Considerations' section below.
11. I therefore conclude on this matter that the proposal would be inappropriate development as neither of the exceptions (*d*) or (*g*) set out in paragraph 145 of

the Framework would apply. In accordance with paragraph 144 of the Framework I attach substantial weight to this harm. In addition, further harm would occur by reducing the openness of the Green Belt to a moderate degree.

Other Considerations

12. The property is located adjacent to a small enclave of large detached houses. The appellant indicates that these houses were part of a redevelopment which replaced a large barn and other structures. The introduction of these properties has undoubtedly changed the character of this area. The design and scale of the proposed dwelling would reflect these properties and its orientation would assimilate it as part of Birch Farm Place.
13. I note that the Council considered that the size and design would not cause harm to the character and appearance of the area which they attributed as a neutral impact. Birch Farm Place has already established residential development in this locality and the proposed development would effectively complete this cluster of properties. I therefore consider this to be a factor in support of the development of moderate weight.
14. The appellant indicates that the existing building is in a relatively poor state of repair and would require substantial investment to bring it up to modern standards. I note from my site visit that the property is not lived in and would require some work, although this is a matter of neutral weight.
15. The appellant has recently obtained Prior Approval in relation to an 8m deep single storey rear extension, and a Lawful Development Certificate for part demolition of rear extension, conversion of garage, single storey extension and first floor rear extension. These applications demonstrate the extent to which the property could be extended under PD, and I accept that these options would notably increase the scale and footprint of the property. However, given the appellant's position regarding the investment required to bring the property up to standard I question if these would be implemented. While the appellant suggests that the footprint with PD would be larger than the proposed scheme, having regard to the illustrated proposals provided, in my view, they would not be significantly more harmful in terms of scale and design. Nor would they have a greater impact on openness. As such this is a matter to which I only give limited weight.
16. No other harm has been identified. Submitted protected species, contamination and arboricultural reports demonstrate that any potential impacts have been adequately assessed and that where necessary appropriate protections would be put in place. However, I consider these to be matters of neutral weight.

Green Belt Balance

17. I have found that the appeal proposal would be inappropriate development in the Green Belt. The Framework, paragraph 143, advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have also found that the proposal would result in a moderate loss of openness.
18. Overall, I find that the other considerations in this case do not clearly outweigh the Green Belt harm that I have identified. Looking at the case as a whole, I consider that the very special circumstances necessary to overcome the Green

Belt harm have not been demonstrated. As such, the development would conflict with the provisions of the Framework and EHDP policy GRB1.

Conclusion

19. For the reasons explained, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

G Ellis

INSPECTOR



Appeal Decision

Site visit made on 17 May 2019

by K E Down MA(Oxon) MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd May 2019

Appeal Ref: APP/J1915/D/19/3224922

11 New Road, Bengoe, Hertford, SG14 3JJ

- 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 Ms S Garner against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/1219/HH, dated 24 May 2018, was refused by notice dated 4 January 2019.
 - The development proposed is erection of a loft conversion and ground floor extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a loft conversion and ground floor extension at 11 New Road, Bengoe, Hertford, SG14 3JJ in accordance with the terms of the application, Ref 3/18/1219/HH, dated 24 May 2018, and the plans submitted with it.

Main Issue

2. There is one main issue which is the effect of the proposed hip to gable extension on the character and appearance of the host dwelling, the street scene of New Road and the Hertford Conservation Area (CA).

Procedural matter

3. The hip to gable extension has been completed. Although the description of development includes a ground floor extension this is not shown on the submitted plans and a part single and part two storey rear extension is being constructed. It is understood from the evidence that this was permitted by the Council under ref. 3/18/0663/HH. In addition, I saw that a rear dormer has been inserted. This does not form part of the proposed development before me to consider and it is thus not within my jurisdiction. This decision therefore related solely to the hip to gable element of the roof extension.

Reasons

4. The appeal site comprises a mid 20th century semi-detached house in a row of similar dwellings. It lies within the Hertford CA. The Hertford Conservation Area Appraisal and Management Plan (CAAMP), 2017, places it within Area 2, the North West Quadrant. According to the CAAMP the key attributes of this area include the listed Holy Trinity church which lies opposite the appeal site in a
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large, well vegetated churchyard, and significant areas of 19th and early 20th century terraced housing.

5. The National Planning Policy Framework (NPPF) makes clear that conservation areas are designated heritage assets. When considering the impact of a proposed development on the significance of a designated heritage asset, the NPPF advises that great weight should be given to the asset's conservation. Significance can be harmed through alteration of the heritage asset or development within its setting.
6. The CAAMP at paragraph 5.214 describes the appeal dwelling and its neighbours as unremarkable but states that the repetitive nature of materials, design and roofs with central chimneys is not unpleasant. Following a CA boundary review, the dwellings appear to be retained in the CA mainly due to their proximity to the listed church and the fact that this area links two parts of the CA. The assessment of the dwellings is a fair one. They are not characteristic of the wider CA but neither do they materially detract from it. In my view they have a neutral effect on the character and appearance of the CA and its significance.
7. The appeal dwelling and its neighbours form part of a large estate of similar dwellings which lies to the north of New Road. Most of the estate lies outside the CA. Within it hip to gable extensions, similar to the one proposed, are not uncommon and have become characteristic of and assimilate well into the street scene. The proposed extension would therefore be in keeping with development in the surrounding area. It would respect established building lines, layouts and patterns and be of a scale, proportion, form, design and character that accords with and complements the surrounding area.
8. In terms of the dwellings in New Road, the appeal dwelling and its attached pair are flanked by similar pairs and set back slightly from them. There are no other hip to gable extensions on the dwellings in New Road. Nevertheless, replacement windows and roof tiles reduce the original uniformity of the row. I am therefore satisfied that, owing to its unobtrusive, mid-row location, the retention of the characteristic central chimney and the existing variations between dwellings, the proposed extension would not be materially detrimental to the character or appearance of the host dwelling, its semi-detached pair or the row of other similar dwellings.
9. Turning to the effect on heritage assets, the modest scale and character of the proposed extension, together with its separation distance from Holy Trinity, including the churchyard, would ensure that it had no effect on the significance of the listed building or its setting. Moreover, its discreet position within a row of unremarkable buildings which have a neutral effect on the heritage value of the CA would ensure that there was no harm to the significance of the CA and that its character and appearance was preserved.
10. It is concluded on the main issue that the proposed hip to gable extension would have no materially detrimental effect on the character or appearance of the host dwelling or the street scene of New Road and would preserve the character and appearance of the Hertford CA and its significance as a heritage asset. In consequence there would be no conflict with Policies HA4, HOU11 and DES4 of the East Herts District Plan, 2018, which taken together expect

extensions to dwellings in conservation areas to have a high standard of design and layout that is of a scale, form and design which is appropriate to the character, appearance and setting of the existing dwelling, reflects and promotes local distinctiveness and preserves the special interest, character and appearance of the CA.

11. The proposed development has been carried out. There is thus no need for the statutory commencement condition or for a condition requiring the development to be carried out in accordance with the approved plans or in materials to match the host dwelling. The Council does not suggest any other conditions and I agree that none is necessary.
12. For the reasons set out above and having regard to all other matters raised, including the lack of objection from Hertford Town Council and the support of the Local Councillor, the Parochial Church Council of Bengo and neighbouring occupiers, I conclude that the appeal should be allowed.

KE Down
INSPECTOR



Appeal Decision

Site visit made on 2 January 2019

by **Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23rd May 2019

Appeal Ref: APP/J1915/D/18/3215257

Thorley Houses Farm, Thorley Lane West, Thorley, Bishops Stortford CM23 4BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr David and Mrs Elizabeth Osborn against the decision of East Herts Council.
- The application Ref 3/18/1714/HH, dated 27 July 2018, was refused by notice dated 11 October 2018.
- The development proposed is described as *'To replace existing single-storey modern rear lean-to Kitchen extension 2.630m deep, with a new extended version 4.700m deep in a similar form'*.

Decision

1. The appeal is allowed and planning permission is granted *'To replace existing single-storey modern rear lean-to Kitchen extension 2.630m deep, with a new extended version 4.700m deep in a similar form'* at Thorley Houses Farm, Thorley Lane West, Thorley, Bishops Stortford CM23 4BN in accordance with the terms of the application, Ref 3/18/1714/HH, dated 27 July 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: 1507-10, 1507-18 and 1507-19A.
 - 3) Notwithstanding condition 2) no development shall take place until samples and details of the external materials and finishes of the construction and making good have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Procedural Matters

2. Since East Herts Council's refusal of the application Ref 3/17/1124/HH, the Council adopted a District Plan on 23rd October 2018, which replaces the East Herts Local Plan (Second Review) 2007. In line with Planning Practice Guidance, my consideration of the issues of the appeal has therefore been on the basis of the policies of the East Herts District Plan 2018 and the National Planning Policy Framework (the Framework). The Council and the appellant

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have confirmed that that their cases have not been prejudiced by this change to the development plan.

Main Issues

3. The main issues are

- whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy; and
- 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

Inappropriateness

4. The appeal site is a substantial Grade II listed two storey detached dwelling on a large plot within the rural area of Thorley and the Green Belt. The proposal involves the removal of an existing single storey rear extension and the construction of a larger single storey rear extension in the same location.
5. Section 13 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It states that construction of new buildings should be regarded as inappropriate in the Green Belt, except for listed exceptions. This includes extensions or alterations of a building provided that it does not result in disproportionate additions over and above the size of the original building. Policy GBR1 of the East Herts District Plan 2018 (the District Plan) states that planning applications within the Green Belt will be considered in line with the provisions of the Framework.
6. The Framework defines "original building" as a building as it existed in July 1948 or, if constructed after that date, as it was originally built. There is no definition within the Framework as to what would constitute a disproportionate addition and I have not been made aware of any within the District Plan
7. The Council has calculated that the proposal for a larger replacement rear extension would lead to an approximate 6.5% increase in the size of the dwelling as it currently stands. The Council has calculated that the increase in floor space to be approximately 129%, when the proposal is added cumulatively to all previous additions to the original building since 1948.
8. The Council, however, acknowledges that the proposed extension would not be of disproportionate size but considers that the cumulative additions to the property, including the proposal, would result in disproportionate increase in size over that of the original building. The Council has therefore concluded, on that basis, that it would constitute inappropriate development in the Green Belt, contrary to the Framework and the District Plan.
9. In this case, the Council has considered that it is only the size of the farmhouse, as it was in 1948 that should be considered as the original building. The Council has not included the original barn, which is contemporary with the

farmhouse, as forming part of the original building on the site and has, therefore, made its calculations and drawn its conclusions on that basis.

10. However, the appellant argues there is a strong case for the barn to be considered as forming part of the original building on the site. Both farmhouse and the barn were on the site in 1948, sit in very close proximity of the site and have a strong historic, functional and formal relationship. Even though not directly connected, this close relationship is historically established and is visually readable in the landscape and, for the purposes of considering the development in terms of Section 13 of the Framework I find, therefore, that the house and barn should be considered as the original buildings on the site.
11. Planning approval was granted for the house to be extended into the barn, which has increased the amount of residential floorspace in the dwelling. Whilst this has enlarged the size of the dwelling the size of the original buildings on the appeal site are ostensibly the same. That said it is both logical and reasonable for the Council to conclude that the accommodation in the barn is an extension to the house.
12. The Framework sets out that the extension or alteration of a building is not inappropriate development provided that it does not result in disproportionate additions over and above the size of the original building. As the Framework concerns itself with size of original building rather than their use this is an important difference in the context of what could be regarded as inappropriate development in the Green Belt, I have given substantial weight to the appellant's gross floor area calculations when considering whether the proposal is a disproportionate addition over and above the size of the original building.
13. I have not been provided with any volumetric measurements. However, without any specific national or local guidance on the matter, the mathematical calculations on floor area do not point me to a situation where the scheme would clearly result in disproportionate additions over and above the size of the original building. Whilst the uplift may be at the outer limits of acceptability, the cumulative additions would not result in a disproportionate addition over and above the size of the original building when viewed as a whole.
14. Taking all of the above in to account I find that the proposal would not result in a disproportionate addition over and above the size of the original building.
15. For the reasons given above, I conclude that the proposal would not be inappropriate development in the Green Belt and would not therefore be in conflict with Policies GBC1 and ENV5 of the East Herts Local Plan (Second Review; Policy GBR.1 of the District Plan or with Chapter 13 of the Framework.
16. Given the above factors the proposal would not, in my view, represent a disproportionate addition over and above the original building and can therefore be regarded as not inappropriate in the terms of Paragraph 145 of the Framework. As I have come to this conclusion it is not necessary for me to consider the impact of the development on openness.

Other Matters

17. The Council has given Listed Building Consent (ref: 3/18/1715/LBC) for the proposed development that is the subject of this appeal. In my consideration of

this appeal I have had regard to my statutory duties under sections 66(1) and 77(1) Planning (Listed Building and Conservation Areas) Act 1990 and find that the proposal does not harm the listed building or its setting.

Conditions

18. The Council have recommended standard conditions with regard to the commencement of development to ensure compliance with legislation and a plans condition for the purposes of precision. A condition is recommended to ensure that the materials match those in the existing building. All three conditions are both reasonable and necessary.

Conclusion

19. For the reasons given above I conclude the proposal would not be inappropriate development with the Green Belt. In all other respects the proposal is acceptable to the Council and I have found no reason to disagree. Having had regard to all other matters raised the appeal should succeed subject to the conditions outlined above.

Victor Callister

INSPECTOR



Appeal Decision

Site visit made on 24 April 2019

by Mark Reynolds BSc (Hons) MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2019

Appeal Ref: APP/J1915/W/19/3221101

Land adjacent to Elms, Slough Road, Allens Green, Sawbridgeworth, Herts, CM21 0LR

- 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 Peter Faud against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/1789/FUL, dated 23 July 2018, was refused by notice dated 23 October 2018.
 - The development proposed is one new five bedroomed, two storey detached house with separate vehicle carport.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the suitability of the site to accommodate a dwelling having regard to local and national policy.

Procedural Matter

3. Subsequent to the lodging of this planning appeal, East Hertfordshire District Council (the Council) adopted the East Herts District Plan (2018) (LP) which has replaced the policies of the East Herts Local Plan Second Review 2007 referred to in the Council's decision notice. I am considering the appeal on the basis of the recently adopted plan.

Reasons

4. Allens Green is identified in the (LP) as a 'Group 3 Village'. Within such settlements, LP policy VILL3 advises that limited infill development, identified in an adopted Neighbourhood Plan (NP) will be permitted subject to a list of criteria. Allens Green does not benefit from a NP and the proposal is therefore contrary to the terms of policy VILL3. The appeal site is also located in the 'Rural Area Beyond the Green Belt' within this area LP policy GBR2 allows for infilling or the partial or complete redevelopment of previously developed land where such sites are in sustainable locations, and they are appropriate to the character, appearance and setting of the site and/or surrounding area.
5. The appeal site is described as a vacant site and as being disused and overgrown by the appellant. The design and access statement identified that it is poor quality unproductive agricultural land. I observed that the site appears

to have formed part of a larger agricultural field which is consistent with the evidence before me. I do not find that the appeal site comprises previously developed land, it is not, and does not appear to have been occupied by a permanent structure and appears to have last been in agricultural use, thereby it is excluded from the National Planning Policy Framework (the Framework) definition of previously developed land. The appeal proposals would therefore also be contrary to the terms of LP policy GBR2

6. The appellant argues that the site is sustainable and that development here may support local shops and facilities. The accompanying text to policy VILL3 records that Group 3 villages are generally amongst the smallest in East Herts and that the villages have a poor range of services and facilities meaning that it is often necessary for local residents to travel outside the village for most of their daily needs. I observed that the village has a public house but I have not been presented with any evidence that Allens Green benefits from any other services. The village appeared not to be served by public transport and I have been presented with no evidence that the village is an accessible location by means other than the private car. It is located some distance from Harlow and Bishop Stortford as the closest significantly sized settlements.
7. The appeal site itself is located along an unlit road which does not have the benefit of a footway and is bounded by mature hedges on both sides of the road with no refuge for pedestrians available. The site is not isolated and paragraph 79 of the Framework is not therefore applicable. This notwithstanding, there would still be negative effects arising from the location in terms of the dependency on private vehicles and the lack of accessibility of local services for future occupiers. These factors weigh significantly against the proposal and run contrary to the LP policies seeking to promote sustainable development and the similar aims expressed in the Framework.
8. Policy VILL3 allows for infill development where there is a NP. This allows communities within the smaller settlements to determine whether they wish to have a small level of additional housing and for this to be a locally driven process. That Allens Green does not have a NP at present does not mean that one could not come forward in the future. The Council's published position is that a 6.2 year housing land supply exists meaning that the Council's housing policies may be given full weight in my decision. Whilst this would be a windfall site, there is no evidence before me that it is required to maintain housing delivery within the district and the proposal is contrary to the terms of LP policies VILL3 and GBR2.

Other matters

9. I acknowledge the design of the proposed dwelling to be acceptable, that it would minimise the loss of countryside, and that it would represent infilling and would therefore in part be policy compliant. The absence of harm in these respects is however a neutral factor. The proposal would make a modest contribution to housing delivery, albeit in a context where adequate provision is currently being made. It would provide employment during construction and may bring economically active people into the area with a resultant increase in spending in the locality. I attribute moderate weight to these benefits of the scheme. This does not though outweigh the harm which would result given the site's poor accessibility to services and facilities and the heavy dependence upon the private car which would result.

10. It is argued that the appeal proposals represent the most compatible use for the site and that alternative uses may be unacceptable. I must though determine the acceptability of the proposals before me as part of this appeal and I attach limited weight to this argument. It has been put that were the site located within the Green Belt, limited infilling within the village would be acceptable. As the site is not located within the Green Belt I do not consider that this weighs in favour of the proposal.

Conclusion

11. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Mark Reynolds

Inspector



Appeal Decision

Site visit made on 1 March 2019

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 28th May 2019

Appeal Ref: APP/J1915/D/19/3219787

95 Dunmow Road, Bishop's Stortford, CM23 5HF

- 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 Michael Horwath against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/1880/HH, dated 19 August 2018, was refused by notice dated 15 October 2018.
 - The development proposed is to remove the hedge and replace with 2 metre high acoustic fencing at 95 Dunmow Road, Bishop's Stortford, CM23 5HF.
-

Decision

1. The appeal is allowed and planning permission is granted for the removal of hedge and replacement with 2 metre high acoustic fencing at 95 Dunmow Road, Bishop's Stortford CM23 5HF in accordance with the terms of the application, Ref 3/18/1880/HH, dated 19 August 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 plans: TQRQM18127212140196 (Location Plan); TQRQM18127213421611 (Site plan); RB/2/619 (Block Plan) and 06 J7/01043.
 - 3) Notwithstanding the height details shown on illustrative plan ref 06/J7/01043, the fence shall not exceed 2 metres in height.
 - 4) All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Preliminary Matters

2. The Council amended the description of development in the interests of brevity. I am satisfied that the Council's description is more accurate and precise than the very long description used by the appellant and have therefore also used the shorter description of development for the appeal.

3. The appellant has supplied plans showing a 2m fence (shown on plan Ref RB/2/619) and describes the fence as 2m (with 50mm embedded), the Council's decision is also based on a 2m fence. However, on submitted plan Ref 06 J7/01043, it is shown as 2.51m (with 80mm embedded). It has been confirmed to me by the appellants that the fence is to be a maximum height of 2m. I have therefore stated 2m as the height in the revised description of development.

Main Issues

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

Reasons

Character and Appearance

5. 95 Dunmow Road fronts on to Stortford Hall Park, where it is bounded by a low garden wall. This garden wall extends around the boundary to Dunmow Road, augmented by a thick evergreen hedge. The majority of private garden area serving the property is situated between the house and Dunmow Road and is the area the appellant wishes to fence off.
6. I acknowledge that the low wall and hedgerow makes a positive contribution to the character and appearance of the area. However, I have considered the evidence submitted by the appellant in terms of other locations where similar fencing has been used as domestic boundary treatments adjacent to public highway. As such, I am satisfied that the use of timber in the locality would not be out of place.
7. A timber fence in this location of the height proposed would not be particularly conspicuous and over time, the appearance of the fence would soften. The appellant plans to plant a laurel hedge around the base of the fence which would serve to soften its appearance further.
8. Overall, I do not consider the proposed fence would be overly conspicuous within the street scene, particularly as it would be augmented with a laurel hedge to the front of the fence. I consider this is capable of being implemented through the use of a planning condition. I therefore consider the proposals are in accordance with DES4 of the adopted East Hertfordshire District Local Plan (2018) (LP) and saved policy ENV1 of the East Hertfordshire Second Local Plan Review 2007 (SLP) both of which seek design quality and design that reflects local distinctiveness.

Conclusions

9. The Council have put forward conditions should the appeal be allowed. I have had regard to these in light of the tests in the Framework and national Planning Practice Guidance. I have imposed a standard condition which limits the lifespan of the planning permission and I have specified the approved plans, for the avoidance of doubt and in the interests of proper planning. Finally, I have imposed a condition to ensure that the proposed landscaping is implemented in accordance with Policies DES3 and DES4 of the LP. I note the Council's concerns regarding the longevity of landscaping but consider the requirement to replace failed landscaping within 5 years to be sufficient time for landscaping to become established.

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

Sian Griffiths

INSPECTOR



Appeal Decision

Site visit made on 30 April 2019

by **K Savage BA MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 May 2019

Appeal Ref: APP/J1915/D/19/3221342

7 Manor Road, Bishop's Stortford CM23 5HU

- 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 Oliver Acland against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2056/HH, dated 11 September 2018, was refused by notice dated 13 December 2018.
 - The development proposed was originally described as *'Replacement of existing single glazed timber bays windows situated on the ground and first floor of the property with double glazed uPVC windows of equivalent design. The replacement bay windows will be the same size and shape as the existing bay windows (the design will be as fitted to the neighbouring property, No. 9 Manor Road - please see attached photo).'*
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 19 February 2019, the Government published a revised National Planning Policy Framework (the Framework). The revised Framework does not materially alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by its publication.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the Bishop's Stortford Conservation Area (BSCA).

Reasons

4. The appeal site is a semi-detached dwelling forming part of a group from 7 to 15 Manor Road which is identified in the Conservation Area Appraisal (CAA) as *'Tall early 20th century residences constructed of brick with tiled roofs and prominent chimneys with pots. Bay windows to both floors; some decorative wooden detailing. Some replacement windows detract but overall mass and scale is pleasing.'* The wider street scene generally continues this palette of materials, with some variation to the design and scale of the buildings. The street contributes to the significance of the BSCA through the townscape created by the historic architecture and consistency of materials of the buildings, including timber windows.
5. The Council made an Article 4 Direction on 14 June 2017 (confirmed on 15 November 2017) removing permitted development rights to undertake,

amongst other things, replacement of doors or windows within the BSCA. The Direction makes clear that it was introduced in response to concerns that the attractive character and appearance of the BSCA was being spoiled by poor quality extensions and alterations to some of the properties.

6. The appellant points to examples of plastic framed windows on neighbouring properties along Manor Road, including the other half of the semi-detached pair at No 9 and at No 13 within the same group. However, the CAA identifies that these replacement windows 'detract' from the group. I viewed the windows along Manor Road and found that most properties retained timber windows, with intermittent plastic frames to some properties. I am not provided with evidence of when other plastic windows on Manor Road were installed but given the Article 4 Direction has been in effect only since June 2017, it is likely that several of the neighbouring windows were altered before this date and formed part of the justification for introducing the Direction. Accordingly, I give limited weight to these examples as precedent for the proposal before me.
7. The appellant states that the bay windows are in a very poor state of repair, that a formal survey found wet rot to the frames and that they no longer sit square, resulting in draughts, heat loss and noise from traffic and passing pedestrians. However, I am not provided with a copy of any survey by the appellant to substantiate their condition. I observed the windows had flaking paint and some resulting evidence of water ingress to the outside. Inside, I did not see the windows to be out of shape, nor did I note draughts, although I accept my visit was a brief snapshot during relatively mild and calm conditions.
8. A building's fenestration is an important component in defining its visual and architectural character. The appellant states that the proposed replacement windows would match the existing timber windows in design and proportions, and that they would match the plastic framed windows next door at No 9. However, I am provided with no detailed plans showing the design of the proposed windows. The Council makes reference to a manufacturer's brochure but this has not been provided in evidence. In the absence of plans or detailed specifications, I cannot be satisfied that the proposed windows would be as described by the appellant.
9. Even if I accept that the windows would match those at No 9, UPVC frames would introduce a design and material finish that is uncharacteristic of the building's age and character, and which is not the prevailing framing material within the surroundings. UPVC is a material with an evident artificial texture and a more uniform finish, both as new and when aging, compared to painted timber windows. The use of a white finish and retention of the glazing pattern would provide consistency with the windows at No 9. However, the windows at No 9 have thicker frames and casements which sit proud of the sub-frame, rather than recessed into the frame as on the existing timber windows. They therefore do not exhibit the detailing of the existing windows and if replicated on the appeal building would be harmful to its historic character.
10. I acknowledge that there are examples of plastic framed windows within the street, but from my observations they are intermittent and not in the majority. They are not sufficient, therefore, to alter the overall traditional character and appearance of the street, and do not justify the further erosion of the character and appearance of the BSCA by the proposed UPVC framed windows to the front of the appeal site. I also appreciate that the other windows in the house

are plastic framed, however the windows subject to the appeal are to the most public elevation of the building, and the uniformity created across the dwelling would not justify the harmful visual impact when viewed from the front.

11. I am referred to a number of Council decisions, and one appeal decision, where non-timber frames have been permitted in the BSCA. I note that these examples relate to addresses in other parts of Bishop's Stortford. I am not provided with full particulars of these other decisions to enable me to determine if these situations are, in fact, comparable to the appeal scheme before me. Therefore, these are not determinative factors in the appeal, which I have considered on its own merits.
12. For the reasons set out above, I find that the proposed replacement of the timber windows with UPVC windows to the front elevation would fail to preserve or enhance the character and appearance of the BSCA. The proposal would conflict with Policies HA1 and HA4 of the East Herts District Plan (October 2018) (the EHDP), which respectively require development proposals to preserve and where appropriate enhance the historic environment of East Herts, and the special interest, character and appearance of conservation areas through, amongst other things, use of materials and design details which reinforce local character and are traditional to the area.
13. When considered in light of the heritage asset as a whole, the impact of the proposal would be localised in nature and therefore I regard the harm as less than substantial within the meaning of the Framework. Paragraph 196 directs that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
14. The appellant submits that the proposed windows would provide increased energy efficiency, addressing existing problems of heat loss and reducing central heating use, in line with the Council's approach to tackling climate change in Chapter 22 of the EHDP. However, I have no details of the proposed windows or their potential energy performance, nor substantive evidence to suggest that UPVC windows significantly outperform well installed and maintained double glazed timber windows in this regard. Even if I accept that the proposed windows would address these problems, the public benefits arising from this would be limited given the small scale of the development. Similarly, improved noise performance from double glazing could also be achieved using timber frames. Therefore, I afford limited weight to this benefit.

Conclusion

15. The public benefits put forward are not sufficient to outweigh the great weight to be given to the less than substantial harm that would be caused to the designated heritage asset by the proposal. The appeal scheme would be contrary to the development plan taken as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. The appeal is therefore dismissed.

K Savage

INSPECTOR



Appeal Decision

Site visit made on 7 May 2019

by Chris Couper BA (Hons) DiP TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2019

Appeal Ref: APP/J1915/W/19/3221849
33 Homefield Road, Ware SG12 7NG

- 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 Jenkins against the decision of East Herts Council.
 - The application Ref 3/18/2058/FUL, dated 17 September 2018, was refused by notice dated 19 December 2018.
 - The development proposed is the construction of a new one bedroom bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant states that it would be possible to reduce the proposed bungalow's roof pitch to match the roofs at 62A and 64 High Oak Road. As part of the appeal, he submitted drawing no. 13638-Sk-1-1st to demonstrate this.
3. However, the Planning Inspectorate Procedural Guide: Planning Appeals – England 2019 states that the appeal process should not be used to evolve a scheme, and that what is considered by the Inspector should be essentially what was considered by the Council, and on which interested people's views were sought.
4. I do not have full elevational drawings of the proposed amendment, which would significantly alter the appearance of the building, and I am therefore not satisfied that this could be dealt with by a condition as suggested. Consequently, I have determined the appeal on the basis of the drawings which were before the Council, and on which interested parties commented.

Main Issues

5. The main issues are the effect of the proposed development on:
 - The character and appearance of the area; and
 - The living conditions of nearby occupiers.

Reasons

Character and appearance

6. In common with nearby properties along this side of Homefield Road, No 33 is a semi-detached bungalow. The pairs are fairly regularly spaced, with the gaps between them affording glimpses through to land to the rear. Their gardens are mostly fairly long, largely open or landscaped, and contain just a few modest outbuildings. Consequently, although many of the bungalows have been extended, some at roof level, the nearby pattern of development on this side of the road is fairly consistent and reasonably spacious. On the opposite side of Homefield Road the layout is far less regular, and the buildings much more varied.
7. As a result of this scheme, No 33's garden would be divided, with the rearmost section accommodating the proposed small bungalow. It would be sited fairly close to three of the plot's four boundaries, and would be visible from Homefield Road, such as between Nos 31 and 33, as well as from nearby properties. Although in the streetscene there are glimpses of dwellings beyond the pairs of bungalows along this stretch of the road, this one would be significantly closer compared to them; and the retained garden of No 33 would be significantly shorter than the others in this row, including Nos 35 and 37.
8. Consequently, although the proposed bungalow's height and scale alone would not appear out of place, considered with its siting and layout, the scheme as a whole would result in a cramped form of development, and would undermine the prevailing more spacious character along this part of Homefield Road.
9. To the south of the site, and fronting High Oak Road, the development pattern is significantly less spacious and, as set out at paragraphs 4.6 and 4.7 of the appellant's statement, there are some dwellings with little or no amenity space.
10. The bungalows at Nos 62A, 64 and 66 High Oak Road are located very close to the southern side of a short, narrow driveway; and from where the proposed bungalow would be accessed. Whilst this scheme would broadly reflect aspects of those bungalow's siting and form, given its position fairly close to the opposite side of the driveway, and the significant proportion of the plot's width that would be covered by the building, it would contribute to a rather overwhelming sense of containment in that area. However, given the less regular and denser settlement pattern here, the harm would be limited.
11. Amongst other things, Policy DES4 of the East Herts District Plan 2018 ('EHDP') requires proposals to be of a high standard of design and layout, which reflects and promotes local distinctiveness. Whilst it encourages making the best possible use of available land, it also states that this should be done by respecting or improving upon the character of the surrounding area, having regard to matters such as scale, siting and layout.
12. As the scheme would significantly harm the character and appearance of the area, it would conflict with that policy, along with the broadly similar stance in the National Planning Policy Framework 2019 ('Framework'), particularly at paragraph 127.

Living conditions

13. The proposed bungalow would be located close to a timber outbuilding within the garden of The Manse, which would significantly screen it from the house some distance beyond. It would be set-in from the side boundary of the long garden at 31 Homefield Road, with that part closest to the boundary comprising a blank flank wall.
14. Although Nos 62A and 64 have windows facing the narrow driveway, the proposed bungalow would not be directly opposite either of those dwellings. Given its siting, its single storey hipped roofed form, and its 'L' shaped footprint, the scheme would not have an overbearing impact on the outlook from either of those properties.
15. There would be a gap between the proposed bungalow and the rear face of 33 Homefield Road, including its conservatory. That gap would be sufficient to prevent this single storey building from having a domineering impact on existing and future occupants of that property.
16. Consequently, the scheme would not impact the living conditions of adjacent occupiers to a harmful degree. On this issue, it would not therefore conflict with EHDP Policy DES4's requirement to avoid a significant detrimental impact on neighbouring amenities, or with the requirement for a high standard of amenity in the Framework.

Other matters

17. At paragraph 11 the Framework sets out that the most relevant development plan policies for determining an application shall be considered out-of-date where the Housing Delivery Test ('HDT') indicates that the delivery of housing was substantially below the housing requirement over the previous three years. The 2018 HDT measurement for East Hertfordshire is 76%. Whilst it is unclear whether or not the Council has prepared an Action Plan to address the matter, having regard to Annex 1 of the Framework, that is above the level at which the 'tilted balance' in paragraph 11 d) is triggered.
18. Nevertheless, the scheme would contribute to the supply of housing, although as only one unit would be delivered, that constitutes only a modest benefit.

Planning Balance and Conclusion

19. I have noted that this scheme was amended in terms of its scale, footprint and plot size compared to a previously refused application. Notwithstanding that, having considered this scheme on its merits, I have found that, whilst it would not impact neighbouring occupiers' living conditions to a harmful degree, it would significantly harm the character and appearance of the area.
20. The scheme's modest benefit does not outweigh the significant harm it would cause. I have considered other matters raised by interested parties, but given my findings on the main issues, it has not been necessary for me to address them further. The scheme would conflict with the development plan when considered as a whole, and the appeal is therefore dismissed.

Chris Couper

INSPECTOR



Appeal Decision

Site visit made on 29 April 2019

by **T A Wheeler BSc (Hons) T&RP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 May 2019

Appeal Ref: APP/J1915/D/19/3221840

7a Lower Green, Tewin AL6 0JX

- 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 Leo Hamby against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2100/HH, dated 29 September 2018, was refused by notice dated 27 November 2018.
 - The development proposed is: 1st floor extension at the front of the dwelling and new window in existing side wall.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council refers to adverse impact on the setting of the adjacent Grade II Listed Building. I did not receive a copy the listing details and therefore asked the Council to supply these to me so that I could properly understand the significance of this asset.

Main Issues

3. These are the effects of the proposal on 1) the character and appearance of the Tewin Conservation Area (TCA) and the setting of the Listed Building, 8 and 9 Lower Green; and 2) the living conditions of the occupiers of the adjoining property at no 7 Lower Green.

Reasons

The character and appearance of the conservation areas and the setting of listed buildings

4. The appeal property is situated close to the Lower Green within Tewin Village. It is a semi-detached two storey house, built of red brick and tiled roofs and dates from the 1970s. It is one of a few modern buildings that fronts onto the village green, and in terms of its siting, scale and massing sits comfortably within its setting.
5. The adjoining property has a 'catslide' roof to a front projection, which also contains a small dormer window. The appeal property has a ground floor extension to the front with a pitched roof. The existing extension, to a limited extent, appears obtrusive within the street scene, and it is markedly different from its neighbour.

6. The proposal would create a new master bedroom at first floor over the existing front projection. The gable end roof would be raised to align with the eaves level of the main house. Two forward facing windows would be aligned with the existing ground floor windows, and the external walling would be rendered at first floor level. In the side gable of the existing property an additional window would be created to serve a new on suite.
7. The proposal would increase the obtrusiveness of the front projection due to the increase in height and expanse of wall. It would also unbalance the existing relationship between the two semi-detached properties, making the appeal property the dominant element and not subservient to the dwelling. The proposed use of render seeks to be sympathetic to other buildings, in particular the Listed Building at nos 8 and 9, however in my view this would add visual confusion.
8. This proposal would therefore have an adverse effect on the character and appearance of the TCA, and the setting of the listed building. The harm to these designated heritage assets would be classed as less than substantial. That does not mean they would be insignificant. I have considered whether any public benefits arising from the proposal would outweigh the less than substantial harm. The enlargement of the dwelling may make the property more suitable for larger families however when weighed against the importance which local and national policies give to the conservation of the historic environment that is not a decisive factor.
9. For proposals in conservation areas, Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing character or appearance. Under Section 66(1) of the Act consideration must also be given to whether the granting of planning permission for the development would preserve the setting of the neighbouring listed buildings. The proposal does not meet these tests.
10. I therefore conclude that the proposal would fail to preserve the character and appearance of the host property and the Tewin Conservation Area, and would therefore not comply with policies DES4, HOU11, HA4 and HA7 of the East Herts District Plan 2018 (EHDC) which seek, amongst other things, to ensure that new development respects and complements the character of the area, achieves a high standard of design and preserves or enhances conservation areas and the setting of listed buildings.

The living conditions of neighbours

11. The adjoining property has a ground floor living room window and first floor bedroom window from which the proposed extension would be visible. Although there would be no new windows within the flank wall of the proposed extension, and therefore no loss of privacy for the neighbour, the outlook from these windows would be significantly reduced and some loss of daylight would occur. This would have a significant adverse effect on the living conditions of the neighbour.
12. I therefore conclude that the proposal would cause harm to living conditions, for which reason the proposal would not comply with policies HOU11 and DES4 of the EHDC, which seek to ensure that developments are well designed and do not harm the living conditions of the occupiers of neighbouring properties.

Conclusion

13. For the above reasons, the appeal is dismissed.

Tim Wheeler

INSPECTOR



Appeal Decision

Site visit made on 17 May 2019

by K E Down MA(Oxon) MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th May 2019

Appeal Ref: APP/J1915/D/19/3223617

29 High Street, Watton at Stone, Hertford, SG14 3SX

- 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 Hunter against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2214/HH, dated 8 October 2018, was refused by notice dated 7 December 2018.
 - The development proposed is the replacement of the existing shallow pitch hipped roof with an increased pitch hipped roof to form two bedrooms in the roof space.
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Decision

1. The appeal is allowed and planning permission is granted for the replacement of the existing shallow pitch hipped roof with an increased pitch hipped roof to form two bedrooms in the roof space at 29 High Street, Watton at Stone, Hertford, SG14 3SX in accordance with the terms of the application, Ref 3/18/2214/HH, dated 8 October 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: 2018-154-P-100A, 2018-154-P-201A, 2018-154-P-202A, 2018-154-P-211A, 2018-154-P-221A, 2018-154-P-501B, 2018-154-P-502A, 2018-154-P-511B, 2018-154-P-512A and 2018-154-P-521B.
 - 3) Except in respect of the roof tiles which shall be as described in the approved plans, the materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issues

2. There are two main issues. Firstly, the effect of the proposed roof replacement on the character and appearance of the host dwelling and the surrounding area, including the Watton at Stone Conservation Area; and secondly, the effect of the proposed roof replacement and rear dormer windows on the living conditions of occupiers of surrounding properties with respect to outlook, privacy and amenity.
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Reasons

3. The appeal dwelling is a large, detached house on a generous plot. It is similar to the neighbouring dwellings at Nos 25 and 27 but has a significantly shallower roof pitch. It lies on the corner of High Street and Aylott Court, a modern development of dwellings with steeply pitched roofs. Beyond Aylott Court is a terrace of four historic and attractive alms houses. This has a shallow pitched, gable ended roof with substantial feature chimneys which dominate the dwellings and are prominent in the street scene.
4. Although the Council's delegated report states that the appeal dwelling lies within the Watton at Stone Conservation Area (CA) the submitted CA plan shows it and Nos 25 and 27 lying just outside the CA. Dwellings in Aylott Court and the alms houses are within the CA. The National Planning Policy Framework (NPPF) makes clear that conservation areas are designated heritage assets. When considering the impact of a proposed development on the significance of a designated heritage asset, the NPPF advises that great weight should be given to the asset's conservation. Significance can be harmed through alteration of the heritage asset or development within its setting.
5. The existing shallow roof of the appeal dwelling gives it an oddly squat and ill-proportioned appearance which is emphasised by the eaves height, which is similar to that at No 27, and the significant footprint of the house. The proposed steeper pitched replacement roof would make the dwelling look more like Nos 25 and 27 which, by contrast, are well proportioned houses of traditional design. The central rear dormer would sit below the central ridge, well up from the eaves and away from the hips. Its sloping roof would reduce its prominence. Overall, it would be of a scale and design that was sympathetic to the host dwelling and did not dominate the roof form. Proposed roof lights in the side facing hips would have no material effect on the character or appearance of the dwelling. The proposed alterations would therefore have a positive effect on the character and appearance of the host dwelling.
6. In terms of the street scene of High Street, most nearby dwellings both inside and outside the CA have noticeably steeper roofs than the appeal dwelling and it is therefore something of an anomaly. The proposed alterations would thus improve its harmony with other dwellings.
7. The Council raises concerns regarding the effect of the higher replacement roof on the character, appearance and setting of the smaller alms houses and the wider CA. However, the wide gap between the appeal dwelling and the alms houses created by Aylott Court which has a wide verge adjacent to No 29 and the set back of No 29 from the alms houses, coupled with the tall vegetation on the boundary between the appeal dwelling and Aylott Court would ensure that the character and appearance of the alms houses, including their setting, and that of the wider CA was preserved such that there was no harm to the significance of the CA.
8. It is concluded on the first main issue that the proposed roof replacement would have no materially detrimental effect on the character or appearance of the host dwelling or the surrounding area and would preserve the character and appearance of the Watton at Stone CA. In consequence, there would be no conflict with Policies DES4, HOU11 and HA4 of the East Herts District Plan (LP),

2018. Taken together, these expect extensions to dwellings that may affect the setting of a conservation area to have a high standard of design and layout that is of a scale, form and design which is appropriate to the character, appearance and setting of the existing dwelling, reflects and promotes local distinctiveness and preserves the special interest, character and appearance of the CA.
9. Turning to the effect on living conditions, the Council's concern appears to be in respect of 1 Aylott Court and I agree that there would be no material effect on any other dwelling. No 1 has a first floor window that faces towards High Street and, at an angle, the rear elevation of the appeal dwelling. In terms of outlook, the separation distance, offset angle of view and the proposed hipped roof would ensure that there was no material visual intrusion or loss of outlook from this window. With respect to privacy, although both of the proposed bedrooms would have outlook to the rear, the angle of view would limit any overlooking of the window in No 1 which in any case faces the vehicular and pedestrian access into Aylott Court which is likely to lead to some potential loss of privacy.
10. It is concluded on the second main issue that the proposed roof replacement and rear dormer windows would have no materially harmful effect on the living conditions of occupiers of surrounding properties with respect to outlook, privacy or amenity. In consequence, there would be no conflict with Policies DES4 or HOU11 of the LP which taken together expect extensions and alterations to dwellings to be of a scale, mass and form that is appropriate to the surrounding area, such that they avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and ensure that their environments are not harmed by, amongst other things, inadequate privacy.
11. In addition to the statutory commencement condition, the Council suggests conditions requiring the development to be carried out in accordance with the approved plans and in materials which match the existing dwelling. I agree that these are necessary to provide certainty and in order to protect the character and appearance of the host dwelling and the surrounding area. I will alter the standard wording of the materials condition to reflect that the roof tiles are proposed to be in keeping with nearby dwellings and not to match the existing grey concrete tiles. The Council proposes a further condition, requiring the windows in the rear dormer to be obscure glazed and have fanlight openings. However, in view of my findings on the second main issue with respect to privacy I do not consider this necessary. Neither would it be reasonable since two of the three windows provide the main source of outlook to the proposed bedrooms.
12. For the reasons set out above and having regard to all other matters raised, including the representations of the Watton at Stone Parish Council regarding overdevelopment, I conclude that the appeal should be allowed.

KE Down
INSPECTOR



Appeal Decision

Site visit made on 30 April 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2019

Appeal Ref: APP/J1915/D/19/3220413

Amwell Lodge, Cauthery Lane, Great Amwell SG12 9SN

- 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 & D Steele against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2276/HH, dated 12 October 2018, was refused by notice dated 13 December 2018.
 - The development proposed is a single storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey side extension at Amwell Lodge, Cauthery Lane, Great Amwell SG12 9SN, in accordance with the terms of the planning application Ref 3/18/2276/HH, dated 12 October 2018, and 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: 13181-S001 (Existing Plans and Elevations); 13181-P001-A (Plans and Elevations as Proposed).
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 13181-P001-A (Floor/Elevation - Proposed).

Preliminary Matter

2. On 19 February 2019, the Government published an update to the National Planning Policy Framework (the Framework). This update does not materially alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by its publication.

Main Issues

3. The site lies within an area of Green Belt. Therefore, the main issues are:
 - Whether the proposal is inappropriate development in the Green Belt;
 - The effect on the openness of the Green Belt;
 - If the development is inappropriate, whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development in Green Belt

4. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development but lists certain forms of development which are not regarded as inappropriate. This 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.
5. Policy GBR1 of the East Herts District Plan (October 2018) (the EHDP) sets out that planning applications within the Green Belt will be considered in line with the provisions of the Framework.
6. The original building, as evidenced by photographs supplied by the appellant, was a flat roofed structure over two floors. The Council puts the original floor space at 121.25m². The permission granted in 2003¹ included the introduction of a pitched roof, various extensions and a detached garage. Along with a historic permission from around 1962² (based on the notation of the planning reference), the Council puts the cumulative floorspace of extensions to the original dwelling at 78.75m², an increase of approximately 64.9%. If the detached garage is included, this increase would be 95.25m², or 78.6%. However, the Council is uncertain if the garage replaced an existing structure, and therefore I have taken the figures excluding the garage into account.
7. The proposed extension would add 14.35m² of floorspace, equating to an 11.8% increase over the original dwelling, and a cumulative increase of some 76.8%. The Council accepts that the proposed extension, taken by itself, would not be a disproportionate addition relative to the original dwelling. However, for the purposes of Paragraph 145 of the Framework, it is necessary to consider whether all of the extensions, taken cumulatively, would amount to disproportionate additions.
8. The Framework itself does not define 'disproportionate' and makes no reference to the effect on openness of the Green Belt in relation to this particular exception to inappropriate development. The Council does not refer me to any definition of 'disproportionate' in the EHDP or any supporting guidance. Therefore, there is discretion in the assessment of whether the proposal would meet the exception in this case.
9. The appellant does not dispute the measurements given by the Council but explains that a significant part of the 2003 extension was to create a pitched roof on the property with living space inside. When compared to the historic pictures, it is evident that the past extensions have substantially re-designed the building as a whole. Viewed on site, a single hipped roof structure spans over the main two storey section of the building, which provides a coherent main core to the building to which the existing two storey rear wing and single storey side extension appear distinctly subservient in scale. The proposed extension would be a modest, single storey structure at low level within the space between these two extensions which would not significantly alter the overall scale or shape of the building.

¹ Council Ref 3/02/2679FP – granted 20 February 2003

² Council Ref 3/62/1076

10. A 76.8% cumulative increase in floorspace is considerable. However, the arrangement of the existing extensions creates a largely unified building, and I am mindful of the fact that much of the increase is attributed to the need to add a roof to the structure. Given this, and my observations on site, I am of the view that the existing extensions are not disproportionate in size, and that the addition of the proposed extension, in view of its modest scale and position, would not result in disproportionate additions over and above the size of the original building.
11. Therefore, I find that the proposal would not be inappropriate development in the Green Belt and would accord with Policy GBR1 of the EHDP and the provisions of the Framework.
12. With respect to openness and the purposes of the Green Belt, given my findings that the proposal would not be inappropriate development in the Green Belt, the proposal would, by definition, not have an adverse impact on the openness of the Green Belt or the purposes of including land within it.
13. As the proposal does not amount to inappropriate development, there is no requirement to assess if there are other considerations that amount to very special circumstances.

Other Matters

14. The Council did not refuse permission in respect of the effect of the proposal on the character and appearance of the Great Amwell Conservation Area, on neighbouring living conditions or archaeology. From all I have seen and read, I have no reason to reach different conclusions in these respects.

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 Policy GBR1 of the EHDP. Moreover, there would be no harmful effects on the openness of the Green Belt. Consequently, there is no conflict with the development plan or the Framework and so the appeal should succeed.
16. I have imposed the standard time condition and a condition requiring development to be carried out in accordance with the approved plans, to provide certainty. I also find that a condition requiring adherence to the proposed materials is needed in the interests of the character and appearance of the host dwelling and the surrounding conservation area.
17. For the foregoing reasons and having regard to all other matters raised, the appeal is allowed.

K Savage

INSPECTOR



Appeal Decision

Site visit made on 26 April 2019

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 22 May 2019

Appeal Ref: APP/J1915/D/19/3221791

26A Birchwood, Birch Green, Hertford SG14 2LU

- 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 Graville against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2401/H dated 29 October 2018 was refused by notice dated 21 December 2018.
 - The development proposed is demolition of existing stable block and outbuilding and erection of detached double garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised National Planning Policy Framework (the Framework) was published in February 2019 after the issue of the Council's decision. However, as any policies that are material to this decision have not fundamentally changed in the Framework, I am satisfied that this has not prejudiced any party and I have had regard to the latest version in reaching my decision.
3. A previous appeal decision reference APP/J1915/D/18/3199500 relating to a triple garage on the appeal site in a similar location was dismissed on the 20 June 2018 (the previous appeal decision).

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt;
 - The effect of the development on openness in the Green Belt; and,
 - If it 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

5. Birch Green is a village that is rural in character. The appeal site is a substantial modern two storey detached dwelling in spacious grounds with a timber stable block and outbuilding (the stable buildings) beyond a large area of hardstanding to the south side of the dwelling. The stable buildings are separated from the area of hardstanding by a wooden fence with gates and allow access to a grassed area to the rear.
6. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. It states that inappropriate development is harmful and should not be approved except in very special circumstances. In addition, the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions set out in Paragraph 145 of the Framework.
7. The appellant seeks to rely upon the exception contained in paragraph 145 d) of the Framework which refers to the replacement of a building not being inappropriate provided that the new building is in the same use and not materially larger than the one it replaces.
8. The appellant considers that the proposed garage would be a replacement building for the stable buildings that would be demolished as part of the appeal proposal. However, the respective buildings are not in the same location. The Council indicates that the distance between the appeal dwelling and the proposed garage is approximately 42 metres whereas the distance between the buildings and the appeal dwelling would be approximately 6 metres.
9. There is no Framework definition of a replacement dwelling. However, a replacement building would normally suggest a building in a similar location so that the original building would be lost and not be capable of being rebuilt as it had been replaced. If the appeal proposal were to proceed then subject to obtaining appropriate approvals, further development on the stable buildings land could take place in the future. I therefore do not consider that the proposed garage next to the appeal dwelling is a replacement building for the stable buildings due to their respective locations.
10. Even if I had found that the proposed garage could be considered to be a replacement, the respective buildings would then have to be in the same use to fall within the exception. The appellant refers to the stable buildings as being for a use incidental to the enjoyment of the dwelling but provides no further information about the use of the buildings. Use as a stable is not a use as a garage or a use incidental to the enjoyment of the dwelling. I have no information about the use of the modest outbuilding which is smaller than the stable block and is made of the same materials as the stable block but has a side window.
11. The appellant refers to the stable buildings as being within the curtilage of the appeal dwelling. The Council notes that the stable buildings were not included in the red line boundary for the previous appeal. However, for the purpose of

this appeal, curtilage is not a determinative factor as the exception relied upon refers to the use of the buildings rather than their location.

12. Therefore, the appeal proposal does not fall within the exception set out in Paragraph 145 d) of the Framework as the proposed garage is neither a replacement dwelling nor in the same use as the stable buildings that would be demolished.
13. Paragraph 145 c) of the Framework provides a further exception which refers to the extension of a building not resulting in a disproportionate addition over and above the size of the original building. In accordance with the glossary to the Framework, the reference to "original building" means the building as originally constructed. This exception was relied upon by the appellant in the previous appeal decision for a triple garage.
14. A figure of an 88% increase in floor space compared to the original dwelling was not disputed between the parties in the previous appeal decision. The same percentage increase is referred to by the appellant for this appeal although neither party have provided details of how the percentage was calculated or whether the stable buildings were included in the calculation. However, the appellant does refer to the 88% figure arising from consideration of a planning approval that was granted for a number of extensions in July 2017.
15. The appellant considers that demolishing the stable buildings and allowing the appeal would mean that the percentage increase would remain at 88%. However, in the absence of any breakdown of the agreed 88% calculation, there is limited evidence that the stable buildings were included originally in the percentage increase calculation. In any event, irrespective of whether or not the stable buildings with a floor space of approximately 50 square metres were included in the calculation of the 88% increase, the base line percentage increase from the original building would still be a significant one.
16. The proposed garage would increase the overall footprint of built development and add bulk at the side of the building. Together with existing extensions, it would represent an increase in size of the original dwelling which I consider to be disproportionate.
17. The Framework advises that due weight should be attached to relevant policies according to their consistency with the Framework. As Policy GBR1 of the East Hertfordshire District Plan 2018 (the District Plan) states that planning applications in the Green Belt will be considered in line with the provisions of the National Planning Policy Framework, it can be attached full weight.
18. As the exceptions do not apply, the appeal proposal would be inappropriate development in the Green Belt. The Framework advises that substantial weight should be given to any harm to the Green Belt. It would also conflict with Policy GBR1 of the District Plan.

Openness

19. The openness of the Green Belt is clearly evident around the appeal dwelling, particularly with views of open fields at the rear. The appeal proposal would be to the side of the dwelling and would not be visible from the driveway. I accept that the loss of openness directly attributable to the appeal proposal would not be great itself, but it would diminish the openness to the side of the dwelling

and add significant bulk to the appeal dwelling. I do not consider that the demolition of the stable buildings to the edge of the appeal site has an impact upon the consideration of openness of the proposed garage which is in close proximity to the substantial appeal dwelling.

20. Therefore, I conclude that there would be a moderate loss of openness undermining the fundamental aim of keeping land permanently open which would conflict with the Green Belt purpose of safeguarding the countryside from encroachment and keeping land open.

Other Considerations

21. The appellant indicates that the District Plan has been adopted since the previous appeal decision was made and refers to other policies in the District Plan but provides limited details. I note that the appeal proposal is now classified as a Group 2 village whereas it was previously a Group 3 village. However, the appeal site is still within the Green Belt and Policy GBR1 therefore applies. This matter therefore attracts little weight.

Conclusion

22. The Framework indicates that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. The effects of the openness and the purpose of safeguarding the countryside from encroachment is moderate. The Framework establishes that substantial weight should be given to any harm in the Green Belt. The other considerations that arise do not clearly outweigh the harm. Consequently, very special circumstances do not exist.
23. For all the reasons given, I conclude that the appeal should be dismissed.

E Griffin

INSPECTOR



Appeal Decision

Site visit made on 30 April 2019

by **K Savage BA MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 May 2019

Appeal Ref: APP/J1915/D/19/3220497

Brienz, Albury Road, Little Hadham SG11 2DN

- 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 Ms J Earthrohl against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2242/HH, dated 4 November 2018, was refused by notice dated 7 January 2019.
 - The development proposed is the erection of a first floor extension and associated alterations to ground floor.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a first floor extension and associated alterations to ground floor, at Brienz, Albury Road, Little Hadham SG11 2DN, in accordance with the terms of the planning application Ref 3/18/2242/HH, dated 4 November 2018, and 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: ERT018_OS (Site Location Plan); ERT018_BP (Block Plan); ERT018_01A (Existing Details); ERT018_02B (Proposed Details).
 - 3) The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those used in the existing building.

Preliminary Matter

2. On 19 February 2019, the Government published an update to the National Planning Policy Framework (the Framework). This update does not materially alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by its publication.

Main Issue

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

Reasons

4. The appeal site is located along a rural road with ribbon development on both sides and contains a bungalow set back from the road on a narrow deep plot. It spans across much of the width of the site and features a hipped roof. The size and layout of the appeal site is similar to neighbouring properties. The other dwellings vary in their detailed design, but largely take the form of modest bungalows or dormer bungalows which lends an element of consistency to the street scene. The appellant refers to a number of the properties having undergone recent extension or redevelopment, including the adjacent property, Lairds Folly, which is a large, dormer bungalow with a prominent front facing gable.
5. The proposal would add a first floor to the building by raising the roof height between around 1.3 and 1.7 metres, creating gable ends to both sides and inserting dormer windows and rooflights to the front and rear roof slopes. A porch would be added to the front elevation to create a new main entrance to the dwelling.
6. The existing dwelling is modest in scale and has an unassuming presence within the street scene. The extension would add considerably to the upper parts of the building, creating a more substantial structure. It would, however, be almost fully within the existing footprint of the dwelling, with only a small oversailing section at the front. The proposed roof shape would relate well to the existing scale, footprint and design of the dwelling, creating a unified and coherent form which would not appear disproportionate or incongruous.
7. In terms of detailed design, the proposed front dormers would centre over windows on the ground floor. The proposed rooflights, given their number and positions, would clutter the front roof slope somewhat; however, due to their modest size they would appear subservient to the dormer windows and would not detract significantly from the appearance of the building. With the addition of the proposed porch, I find that the front elevation, overall, would enhance the appearance to the building.
8. Larger dormer windows are proposed to the rear. These would be screened from public view and seen only from the rear gardens of the appeal site and the properties to either side. Nevertheless, the dormers would not be excessive in size and would occupy suitable positions on the roof slope. These elements would not be harmful in scale or appearance.
9. The introduction of gable ends would not be out of character with the area, given their prominent presence on the adjacent property, Laird's Folly, and others including Windmill Croft and White Bungalow. Although the proposed dwelling would have greater bulk towards the sides of the site, it would continue to sit well back in its plot, with separation from the boundaries on either side. I noted similarly wide site coverage to Laird's Folly. In this context, the proposed dwelling would not appear cramped or at odds with the spacious character of surrounding dwellings.
10. The additional ridge height would be partially visible from Albury Road amidst the foliage along the roadside and between dwellings. However, this height would be seen in context with the presently taller building at Laird's Folly, and the proposed dwelling would not exceed the height of this neighbouring property by a significant margin. Moreover, the presence of trees and

hedgerows both in the foreground and behind the dwellings breaks up longer views and would help to embed the built form into the landscape. Therefore, the overall scale of the dwelling would not be excessive or discordant within the street scene.

11. For these reasons, I find that the proposal would preserve the character and appearance of the area. Consequently, there would be no conflict with Policies VILL2, HOU11 or DES4 of the East Herts District Plan (October 2018). Together, these policies require development to be well designed and in keeping with the character of the village; appropriate in size, scale, mass, form, siting, design and materials; for extensions to be subservient and to utilise modest detailing to dormer windows.

Other Matters

12. The Council did not oppose the application in respect of the effect on neighbours' living conditions or highway safety. From all I have seen and read, I have no reason to reach different conclusions in these respects.

Conditions

13. I have imposed the standard time limit condition and a condition requiring development to be carried out in accordance with the approved plans, to provide certainty. I also find that a condition requiring the proposed materials to match those of the existing dwelling is needed in the interests of the appearance of the dwelling and wider area.

Conclusion

14. For the foregoing reasons and taking all other matters into consideration, I conclude that the proposal accords with the development plan and the appeal should be allowed.

K Savage

INSPECTOR



Appeal Decision

Site visit made on 30 April 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2019

Appeal Ref: APP/J1915/D/19/3221452

20 Desborough Drive, Tewin Wood, Tewin AL6 0HJ

- 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 & J Hussey against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2471/HH, dated 7 November 2018, was refused by notice dated 4 January 2019.
 - The development proposed is a double storey rear and single storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for a double storey rear and single storey side extension at 20 Desborough Drive, Tewin Wood, Tewin AL6 0HJ, in accordance with the terms of the planning application Ref 3/18/2471/HH, dated 7 November 2018, and subject to conditions set out in the attached schedule.

Preliminary Matter

2. On 19 February 2019, the Government published an update to the National Planning Policy Framework (the Framework). This update does not materially alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by its publication.

Main Issues

3. The site lies within an area of Green Belt. Therefore, the main issues are:
 - Whether the proposal is inappropriate development in the Green Belt;
 - The effect on the openness of the Green Belt;
 - The effect on trees;
 - If the development is inappropriate, whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development in Green Belt

4. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development but lists certain forms of

- development which are not regarded as inappropriate. This 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.
5. Policy GBR1 of the East Herts District Plan (October 2018) (the EHDP) sets out that planning applications within the Green Belt will be considered in line with the provisions of the Framework.
 6. The Council states that the original building had a floorspace of approximately 140 square metres (m²) and has been extended several times. Together with the proposed extensions, the cumulative floorspace would amount to some 367m². This, the Council points out, is an increase of 227m² or 162% compared to the original building. The appellants state that they have no basis on which to challenge the Council's figures, but question whether the removal of the garage has been factored into the calculations.
 7. The dwelling is a substantial, detached house sitting back from the road within large, mature grounds, similar to other properties on Desborough Drive and surrounding roads. The past extensions, with the exception of the detached garage, have integrated well with the existing building. A single roof structure spans across the whole width of the dwelling and the only evidence of a side extension appeared to be a small step in the rear building line. Nevertheless, these extensions have added considerably to the overall size of the dwelling.
 8. The proposed extensions would be significant in size in their own right. The rear, two storey extension, whilst relatively shallow in depth, would span around two thirds of the width of the dwelling, meeting and slightly overlapping the existing single storey extension and rising to main eaves level with hipped roof elements intersecting with the main roof. The side extension would replace the existing detached garage. In doing so, contiguous built form would stretch out from the dwelling slightly closer to the side boundary and extend further rearward to the line of the single storey rear extension.
 9. Even accounting for the removal of the garage, I am of the view that the size of the proposed extensions, when taken together with those previously added, result in disproportionate additions over and above the size of the original dwelling. Consequently, the proposal amounts to inappropriate development within the Green Belt and would conflict with Policy GBR1 of the EHDP and the provisions of the Framework.

Effect on Openness

10. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and their permanence. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.
11. The proposed extensions would be located to the side and rear of the dwelling, and in spatial terms would add built form where there presently is none. In some views the additional bulk of the extensions would be seen against the backdrop of the existing dwelling. However, the rear extension would be clearly seen in views from the road on East Riding. The dwelling also stands side-on to Firs Walk. On approach to the site from this direction, the additional depth of the extension would be evident. The additional bulk of the side extension would be seen from Desborough Drive and the adjacent property at No. 18.

Therefore, the proposal would add to the overall built form of the dwelling. Having regard to the overall size and position of the extensions, the proposal would result in a modest loss of openness.

Effect on Trees

12. The appeal site is covered by the Tewin Wood Area Tree Preservation Order. The Council's concern arises from the proximity of several trees to the proposed side extension, and the absence of any arboricultural assessment of the potential impact of development on these trees. The Council's Landscape Officer was consulted but provided no comments on the application. The trees in question are identified on the plans as a Beech to the rear, an Ash to the front and a number of trees along the boundary adjacent to the proposed extension, identified as Holly trees, though there appeared to be other species when I viewed the area on site.
13. The Ash tree is located well forward of the existing garage and in the neighbouring property. The proposed extension would be no closer to this tree than the existing garage, and I am satisfied that it would be sufficiently distant to not suffer harm as a result of the development. The Beech tree is also some distance from the nearest point of the proposed extension at the rear and any incursion into the root protection area would be limited at best.
14. The side wall of the proposed extension would be set slightly closer to the boundary than the existing garage. I observed the trees in this area to be somewhat isolated between two garages, set immediately against boundary fencing and not of the same size or visual prominence as trees to the front or rear of the site. It is also relevant that the appellants could construct an outbuilding along a similar building line under permitted development (PD), as evidenced by a recently issued lawful development certificate¹ (LDC). In these circumstances, I consider that any potential effect on these trees could be addressed through planning conditions requiring details of the proposed groundworks within the vicinity of the trees and means of protection of trees during construction. I note the Council has suggested conditions to this effect.
15. For these reasons, I find that the proposed development would not have an adverse impact on trees, and would accord with Policy NE3 of the EHDP, which resists development which would result in the loss of or significant damage to trees, hedgerows or ancient woodland sites.

Other Considerations

Fall-back position

16. The appellants draw my attention to two LDCs² issued by the Council in respect of similar development to that proposed which could be carried out under PD. One relates to a detached outbuilding to replace the double garage, whilst the other relates to a two storey rear extension.
17. The two storey rear extension would differ from that proposed only in that it would not adjoin the existing single storey rear extension. The resulting narrow gap would only be perceptible in views from within the rear garden, and in my

¹ 3/18/0880/CLP – 18 June 2018

² 3/18/0885/CLP – 14 June 2018 and 3/18/0880/CLP – 18 June 2018

view, there would be no discernible difference in terms of visual impact or effect on openness between the two proposals.

18. The detached outbuilding proposed under the LDC would be a flat-roofed, rendered structure set on the footprint of the existing garage, but extending some 14.5 metres in depth, well beyond the depth of the proposed side extension forming part of this appeal. The Council argues that the side extension would have significantly greater height, massing and bulk than the outbuilding, and that the side extension could not be constructed under PD. The Council therefore considers the detached outbuilding does not represent a fall-back position for the appellants. The appellants point out that the side extension would be some 16% smaller in footprint than the PD detached outbuilding.
19. Viewed from the front, the side extension would appear larger given its connecting section, slightly wider footprint and shallow pitched roof. Viewed from the side or rear, however, the detached outbuilding would be significantly deeper and more conspicuous in comparison to the greater integration of the side extension through its matching of building lines, roof shape and materials.
20. Given that LDCs have been issued for these developments, I consider it a strong possibility that they would be implemented were this appeal to fail. The detached outbuilding, in particular, would be a discordant feature which would have a greater and more adverse effect on openness than would the proposed side extension, and its conflicting materials and form would harm the character and appearance of the area. Moreover, its depth would bring it into the root area of the aforementioned Beech tree and increase the risk of damage or loss to this protected tree.
21. Taking these considerations together, I find that the appeal scheme would have a less adverse effect on openness than would result from implementation of the PD schemes. Moreover, the appeal scheme would be preferable to the PD schemes in terms of design. Overall, I am satisfied that the appeal scheme would have a preferable effect to that of the PD schemes.

Other matters

22. The extensions would reflect the form and materials of the existing dwelling, and the Council raised no objection to the proposal's effect on the character and appearance of the area. Neither did the Council oppose the application in respect of the living conditions of neighbouring occupants, highway safety or the site's location in an Area of Archaeological Significance. I have no reason to reach different conclusions in these respects. These considerations are, however, neutral factors weighing neither for nor against the proposal.

Planning Balance

23. The proposal would not have a harmful effect on character and appearance, but the extensions would result in disproportionate additions to the original building and so would comprise inappropriate development in the Green Belt. There would also be some harm to the openness of the Green Belt.
24. However, I give significant weight to the potential fall-back schemes which may be implemented under PD, which would have a greater effect on openness and an inferior design compared to the appeal scheme.

25. I find that this other consideration is of sufficient weight to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness and effect on openness. Consequently, very special circumstances exist to justify inappropriate development in the Green Belt.
26. Although there would be conflict with the development plan, the balance of planning considerations in this case leads me to the view that the appeal should succeed.

Conditions

27. The Council has suggested conditions in the event the appeal is allowed, which I have considered in light of the tests of conditions within the Framework and guidance of the Planning Practice Guidance and amended where necessary to meet those tests.
28. I have imposed the standard time limit condition and a condition requiring development to be carried out in accordance with the approved plans, to provide certainty. I also find that a condition requiring the proposed materials to match those of the existing dwelling is needed in the interests of the appearance of the dwelling and wider area.
29. As already indicated, conditions are necessary to require details of the proposed groundworks for the side extension, and protection measures during construction, in order to prevent harm to existing protected trees.

Conclusion

30. For the foregoing reasons and taking all other matters into consideration, I conclude that the appeal should be allowed.

K Savage

INSPECTOR

Schedule – 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: 13249-S001-1st (Plans and Elevations as Existing); 13249-P005-A (Plans and Elevations as Proposed); 13249-P006-1st (Roof Plan and Site Plans as Proposed).
- 3) The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those used in the existing building.
- 4) Prior to the commencement of the single storey side extension hereby approved, details of the design of its foundations and how these will take account of existing trees and their roots, including the layout, positions, dimensions and levels of (a) service trenches (b) ditches (c) drains and (d) other excavations on site insofar as they may affect trees and hedgerows on or adjoining the site, shall be first submitted to and approved in writing by the Local Planning Authority and thereafter the development should be implemented in accordance with the approved details.
- 5) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. Prior to the commencement of the single storey side extension hereby approved, all trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.

END OF SCHEDULE



Appeal Decision

Site visit made on 21 May 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2019

Appeal Ref: APP/J1915/W/19/3223825

Bakers Farm, High Wych Lane, High Wych CM21 0JL

- 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 Ms Kirstie Neilson against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2476/FUL, dated 23 October 2018, was refused by notice dated 3 January 2019.
 - The development proposed is construction of 1No pair of 3 bed semi-detached houses and associated garages and access road.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether or not the proposal is inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - Whether or not the proposal would preserve or enhance the character or appearance of the High Wych Conservation Area (the CA), including consideration of the effect of the proposal upon the setting of Bakers Farm House, a grade II listed building, and upon existing trees/landscaping;
 - If the proposal were to be inappropriate development, whether or not the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether or not inappropriate development

3. The revised Framework sets out that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless, amongst other exceptions, they represent limited infilling in villages. In this instance, the appeal site falls outside High Wych's defined village boundary. A playing field, that also contains a scout hut situated adjacent to the site boundary, is located between the site and the village boundary.

4. I accept that the proposal should not be discounted as potential infilling within a village purely on the basis that it is located outside of High Wych's defined boundary. Nonetheless, the boundary has been specifically designated by the Council to define the village's limits and the limits of where development would ordinarily be encouraged. The village boundary's position, whilst not determinative, is thus still relevant to my considerations here. The boundary is relatively tightly drawn in the case of High Wych. Indeed, I note that several key services and facilities that serve the village, including a primary school, church, memorial hall, public house and bus stop are situated to the south of the village and outside of its defined boundary.
5. Notwithstanding the aforementioned situation to the south of the village, the playing field, located to the west, provides a generous area of grassed land clear of built development (other than the scout hut, which is set away from the village boundary). Whilst I note that the playing field provides a recreational facility for villagers, the village boundary (where it abuts the playing field) marks a distinctive edge to the village where compactly laid out predominantly residential development gives way to open undeveloped land consisting of the playing field and adjoining rural fields/paddocks situated beyond. This finding is whilst noting the presence of discreetly scaled boundary treatment to part of the perimeter of the playing field.
6. I acknowledge that Bakers Farm appears on a historic map of the CA dating from 1874 (the historic map) and that Bakers Farm House's listing entry refers to High Wych Village. However, the historic map also highlights the very scattered and dispersed pattern of development that was historically in place in the High Wych area, with the Bakers Farm grouping appearing as an isolated cluster of development. I acknowledge that the village has grown inwardly between outermost features of note depicted on the historic map and picked out by the appellant as the Church Plantation to the south, Bakers Farm to the west, The Four Lanterns to the north and a track running north-south to the east. It however remains the case, due predominantly to the playing field's presence, that the Bakers Farm grouping continues to appear distinct and physically separate from the core of the village.
7. The proposed dwelling would be located to the east of Bakers Farm and to the west of the scout hut, such that the proposal could be thought of as infill between these built features. I also accept that the appeal site is of moderate size and that a proposal for a pair of semi-detached dwellings upon it could be considered limited in scale (particularly when noting the fair size of High Wych village as a whole). I am however not content, for the reasons set out above, that the proposal would represent limited infilling within a village.
8. Furthermore, I do not consider that the proposed location of the development adheres to the definition of previously developed land as set out in the revised Framework and therefore no other exceptions to the construction of new buildings being considered inappropriate in the Green Belt appear to apply to the proposal before me. For the above reasons, the proposal would be inappropriate development in the Green Belt and, in this regard, it would conflict with Policy GBR1 of the East Herts District Plan (2018) (the District Plan) and with the revised Framework in so far as these policies state that inappropriate development is, by definition, harmful to the Green Belt.

Effect on openness

9. The proposal's effect upon the openness of the Green Belt would be tempered to some degree by virtue of the presence of other built development at Bakers Farm and the existence of landscaping on and surrounding the appeal site. However, particularly noting that openness in terms of the Green Belt has a spatial aspect as well as a visual aspect, the proposal would introduce 2 substantial dwellings in a location that is currently clear of built development and situated close to the roadside frontage of the site. It would lead to a loss of openness.
10. For the above reasons, the proposal would cause harm to the openness of the Green Belt and would conflict with Policy GBR1 of the District Plan and with the revised Framework in so far as these policies state that the essential characteristics of Green Belts are their openness and their permanence.

Character and appearance of the Conservation Area and the setting of the listed building

11. I first note that the statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is to pay special attention to the desirability of preserving or enhancing the character and appearance of designated conservation areas, which is a matter of considerable importance and weight. Notwithstanding that the Council's second reason for refusing planning permission references only a failure to enhance (rather than a failure to either preserve or enhance) I shall consider this main issue of the appeal in accordance with the statutory duty.
12. The appeal site contains a grade II listed former farmhouse (Bakers Farm House) (the LB) and encompasses areas of the wider historic farmstead and a diverse range of outbuildings grouped to the former farmhouse's rear. External areas of the site situated close to its road frontage take the form of maintained residential garden land. Indeed, the proposal is focused on this garden land situated to the eastern side of the LB. Various planting is in place to the boundaries of the garden, including hedging and a number of trees to the roadside frontage and to the eastern boundary. There is also a substantial wooded belt of trees situated outside of the appeal site and opposite the site's frontage. The part of the appeal site earmarked for development is wholly contained within the CA.
13. The significance of the CA as a designated heritage asset is drawn in part from its heavily landscaped character interspersed by green open spaces and a scattered array of historic buildings that offer relevance to the historic evolution and rural history of the area. Indeed, the significance of the LB as a designated heritage asset is drawn, in part, from being one of these historic buildings relevant to the historic evolution of the area. Particularly when viewed alongside its associated former stable block to the west (which is also grade II listed) with its distinctive crow-stepped gables, the LB has a distinctive presence and is a fine example of an historic rural farmhouse such that it represents an attractive, important and significant feature within the CA.
14. As referenced in the High Wych Conservation Area Appraisal and Management Plan (October 2014) (the Appraisal), trees and small areas of woodland enhance many areas of the CA adding character and diversity to local

streetscenes. Indeed, the Appraisal specifically depicts important views to be protected across part of the appeal site's frontage.

15. I acknowledge that the existing scout hut, which does not contribute positively to the character or appearance of the CA, shields views of the site to a substantial extent when approaching from the east. In addition, the Bakers Farm grouping itself shields views when approaching from the west. However, as noted by the Council's Conservation Officer, the open garden land where the proposed dwellings would be sited still provides opportunities for fine views of the LB (of a short or localised nature) to be experienced.
16. The appellant has referred to the historic map and suggested that the garden land under consideration may have historically been separated from the LB due to an historical boundary having likely been in place. Even if this were indeed the case, the garden land in question, whilst not defined within the Appraisal as important open space to be protected, provides a beneficial break in development that is consistent with the CA's green and dispersed character.
17. I accept that the proposed dwellings would be of simple rectangular footprint and pitched roof form. They have been designed whilst taking cues from the local vernacular to provide articulation/visual interest and I note that locally relevant materials are intended to be used in construction. Indeed, I do not have undue concerns that the new dwellings would appear overly busy in character. I am also content that the newly proposed access/driveway, whilst of generous width and being not insignificant in length, would in itself be relatively discreetly located close to the eastern boundary of the site. It would also be possible to secure the use of surfacing materials sensitive to the site's setting.
18. However, due to their positioning, scale and prominence, the dwellings would significantly impede localised views of the LB and would effectively compete for prominence with this former farmhouse in the streetscene. The proposal would have the effect of diminishing the openness of the LB's setting and of reducing its contribution to the character and appearance of the CA accordingly.
19. Whilst the appellant has described the proposed dwellings as modest in scale, they would incorporate two floors of living accommodation beneath relatively steeply pitched roof features. The special qualities of the LB would be impinged upon, notwithstanding that an approximate 10m gap is proposed to be provided between it and the proposed dwellings. This gap would be far reduced in extent when compared to the current length of separation in place between the LB and the scout hut.
20. I accept that, from the roadside, glimpses of the agricultural fields that are situated to the rear of domestic garden land would likely still be possible across the site were the proposal to be implemented. However, for the reasons set out above, the proposal would still fail to preserve or enhance the CA's character or appearance and would lead to a loss of heritage significance. The proposal would also have a detrimental effect upon the setting of the LB, also resulting in a loss of heritage significance.

Trees and landscaping

21. Policy DES3 states that development proposals must demonstrate how they will retain, protect and enhance existing landscape features which are of amenity

- value and/or of biodiversity value. The proposal is however supported by limited details with respect to existing trees and planting on the site and it is apparent that the vehicular access/driveway that is proposed would have implications for existing planting.
22. The appellant has stated that on-site removals would be limited to a small element of the road-fronting hedge, one large tree (although it is unclear from the evidence before me which tree), a couple of small trees and a clustering of bushes. It has also been stated that the vegetation forming the site's easternmost boundary will be retained in full.
23. It was apparent from inspection that, notwithstanding the appellant's assertions otherwise, there are trees located close to the eastern boundary that would be expected to be impacted upon by the newly proposed vehicular access/driveway, either directly or by virtue of development/excavation within their root protection areas. One of these trees, appearing to be an oak, is particularly prominent and appears to be stable and in good health. It is also widely visible across the playing field as one approaches the site from the east and makes an important visual contribution to the site and its surroundings.
24. I note that whilst small-scale tree/hedgerow removals could potentially be mitigated for by re-planting to an extent that net-improvements could be made, this is not necessarily the case with respect to mature specimens, particularly should they contribute significantly to the character or appearance of the CA.
25. Whilst the appeal site is not pinpointed within the Appraisal as being a general location of important trees, this does not mean to say that there are not important individual tree specimens located upon it. I consider that there would be the likely prospect of harm being caused to existing planting of value by the proposed development, such that insufficient assurances have been provided that the green and heavily landscaped character and appearance of the CA would be preserved in this context. It would not be appropriate for additional information in this regard to be secured via planning condition, particularly since amendments to the proposal would likely be necessitated.
26. Even setting aside these insufficient assurances that have been provided with respect to existing planting, for the reasons set out above, the proposal would lead to less than substantial harm being caused to the significance of the CA and to the significance of the LB (via harm to its setting). As set out in the revised Framework, any less than substantial harm should be weighed against the public benefits of the proposal.
27. The proposal would deliver 2 residential units and it is intended that additional landscaping be planted at the site (with anticipated visual and biodiversity benefits). The revised Framework reaffirms the Government's objectives to significantly boost the supply of homes and the site is located within a District where, based on the Government's published 2018 Housing Delivery Test Results, the number of homes delivered has not fully met the number of homes required over the previous 3 years. However, the contribution of only two dwellings alongside additional landscaping would be relatively modest and would not outweigh the identified harm that would be caused to either the CA or the LB's setting.

28. For the reasons set out above, the proposal would cause harm to the character and appearance of the CA and to the setting of the LB. It has also not been satisfactorily demonstrated that the proposal would have an acceptable effect upon existing trees/landscaping so as not to cause further harm to the character or appearance of the CA. The proposal conflicts with Policies HA1, HA4, HA7, DES2 and DES3 of the District Plan in so far as these policies require that development proposals should preserve and where appropriate enhance the historic environment of East Herts and must demonstrate how they will retain, protect and enhance existing landscape features which are of amenity value and/or biodiversity value, in order to ensure that there is no net loss of such features.

Other Matters

29. I note that any advice offered to the appellant by the Council at pre-application stage would have been given on a without prejudice basis and thus would not be determinative with respect to any future planning application submitted. I also acknowledge that neither the Highways Authority nor the Parish Council have raised objections to the proposal. Whilst I am satisfied that the proposal raises no concerns in respect to highway safety, it has been necessary to assess the suitability of the proposal in a variety of other contexts.

30. I also note that the appellant has shared appeal decisions from elsewhere which I have carefully considered. Notwithstanding this, it should be noted that these other cases provide differing circumstances when compared to the appeal proposal before me and therefore are of limited relevance to my determination of this appeal.

31. For the avoidance of doubt, irrespective of whether or not the Council can currently demonstrate a five-year supply of deliverable housing sites, I have not applied the tilted balance as set out in paragraph 11 of the revised Framework. This is because the Green Belt provisions contained within the revised Framework provide a clear reason for refusing the proposal.

Whether very special circumstances exist

32. The revised Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. As already noted above, the proposal would deliver 2 additional housing units within a District where an under-delivery of housing has been identified and additional landscaping is proposed.

33. These contributions would not however clearly outweigh the significant harm identified to the Green Belt (including harm derived from loss of openness) and the other harms I have identified so as to amount to the very special circumstances necessary to justify the proposal. The proposed development conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

34. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR

Appeal Decision

Site visit made on 17 May 2019

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th May 2019

Appeal Ref: APP/J1915/D/3225203

32 London Road, Hertford Heath, SG13 7PN

- 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 Scott Carter against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2719/HH, dated 11 December 2018, was refused by notice dated 15 January 2019.
 - The development proposed is an extension of existing dropped kerb.
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Decision

1. The appeal is dismissed.

Main Issue

2. There is one main issue which is the effect of the proposed extended dropped kerb on highway safety.

Reasons

3. The appeal dwelling is a detached house on a wide plot. The site lies in the settlement of Hertford Heath which is characterised in this area by dwellings and commercial properties, including shops and a public house, arranged each side of the well used B1197 London Road. It has an existing dropped kerb some 4.5m wide which allows vehicular access to and from the London Road. Visibility appears good at the existing entrance where the speed limit is 30 mph and it is not suggested in the evidence that visibility is inadequate. Much of the appeal site frontage is hard surfaced to allow vehicle parking, with ample space to park three cars.
 4. The appellant wishes to widen the dropped kerb to some 9.9m in order to allow vehicles to enter and leave the site independently and in a forward gear. I accept that reversing onto London Road in this location could be potentially hazardous.
 5. Nevertheless, the Highway Authority has objected to the proposed widening of the dropped kerb due to it being a poor layout that would lead to highway safety concerns and states that its published guidance makes clear that a maximum width of 5.4m is permitted for a dropped kerb serving a dwelling. The
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Highway Authority does not explain clearly why the proposed layout raises a highway safety concern but states that it would not be prepared to install the proposed arrangement. I therefore give this objection significant weight.

6. Moreover, in this location, where the road is relatively wide, straight and well used and some traffic may be travelling in excess of the speed limit, I consider that a precautionary approach should be adopted in the case of highway safety.
7. The appellant has drawn my attention to numerous examples of other dropped kerbs nearby which are wider than 5.4m. However, I note that in the majority of cases these serve driveways to two or more adjacent dwellings where a wide dropped kerb arrangement would be difficult to avoid.
8. What is more, although the appellant argues that his aim is to enable access and egress to and from the site in a forward gear for all vehicles, which I consider to be desirable, it is not clear from the evidence that this could only be achieved through the proposed significant widening of the dropped kerb.
9. On balance, I find that the proposed development would have an unacceptable impact on highway safety which would be contrary to paragraph 109 of the National Planning Policy Framework.
10. It is concluded on the main issue that the proposed extended dropped kerb would have a materially detrimental effect on highway safety. It would therefore conflict with Policy TRA2 of the East Herts District Plan, 2018, which expects development proposals to ensure that safe and suitable access can be achieved for all users and that development is acceptable in highway safety terms.
11. For the reasons set out above and having regard to all other matters raised, including the willingness of the appellant to use permeable paving on the area of enlarged hard standing and the fact that no objection is raised with respect to character and appearance or living conditions, I conclude that the appeal should be dismissed.

KE Down
INSPECTOR