



Appeal Decision

Site visit made on 5 April 2019

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 4th June 2019

Appeal Ref: APP/J1915/D/19/3222748

25 Church Road, Little Berkhamsted, Hertford SG13 8LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Lee Edwards against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/1606/HH, dated 12 July 2018, was refused by a notice dated 23 November 2018.
 - The development proposed is the demolition of garage and single storey rear extension and erection of a two-storey side extension, single storey rear extension and erection of porch at 25 Church Road, Little Berkhamsted, Hertford SG13 8LY.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of garage and single storey rear extension and erection of a two storey side extension, single storey rear extension and erection of porch at 25 Church Road, Little Berkhamsted, Hertford SG13 8LY in accordance with the terms of the application, Ref 3/18/1606/HH, dated 12 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: 1712.001 (Location Plan); 1712.054 (First Floor Plans - Proposed); 1712.053 (Ground Floor Plans - Proposed); 1712.055 (Roof Plan - Proposed); 1712.060 (Side Elevation & Section Details- Proposed); 1712.070 (Elevations - Proposed).
 - 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to

and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 30 days of the report being completed and approved in writing by the local planning authority.

Preliminary Matter

2. I have taken the description of development from the appeal form. I consider this to be a more accurate description of the proposal and removes narrative text from the original description. It is also the description of development used by the Council in their decision and in the appellant's statement of case.

Main Issues

3. The appeal site is located within the Green Belt. The main issues are therefore:
 - (a) whether the appeal proposal would be inappropriate development in the Green Belt;
 - (b) the effect of the proposal upon the openness of the Green Belt, and
 - (c) if it 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 the development.

Reasons

4. The village of Little Berkhamsted is within Green Belt. Policy GBR1 of the East Herts District Plan 2018 (LP) sets out that proposals for development within the Green Belt will be determined in accordance with the provision set out in the National Planning Policy Framework (Framework).
(a) whether the appeal proposal constitutes inappropriate development in the Green Belt
5. The area of Church Road surrounding the appeal site is a residential village street characterised by detached and semi-detached cottage style dwellings laid out in a spacious manner. The appeal site is one part of two pairs of semi-detached cottages with dormer windows at first floor level. The other three dwellings in the same row have all been altered and extended over recent years to different degrees.
6. The Framework, at paragraph 145 sets out that the construction of new buildings in Green Belt is inappropriate, unless the (specified) exceptions to this are met. At paragraph 145 c) there is an exception where the proposed development is for an extension or alteration that would not result in disproportionate additions over and above the size of the original building.
7. The proposal would add an additional two storeys of living space with a side extension and a rear extension that would run across the full width of the dwelling. The key issue here is therefore whether the proposals would

constitute a disproportionate addition, having regard to the size of the original building. The original building was small and from the appellant's submissions did not include the first-floor side extension or the single storey garage to the side of the property. Having taken account of the built form proposed to be demolished, I consider that the appeal proposals would result in a net increase in floorspace. This is reinforced by the detail of Plan 1712-053 (Ground Floor as Proposed) which shows the existing outline of the dwelling and garage with the new extensions shown. Taken together with the proposed first floor additions, I consider the proposed development constitutes a disproportionate addition above and beyond the original dwelling and it therefore constitutes inappropriate development in the Green Belt.

(b) the effect of the proposal upon the openness of the Green Belt

8. Paragraph 133 of the Framework states that a fundamental aim of Green Belt policy is to prevent urban sprawl and keep land permanently open and the essential characteristics of Green Belt are their openness and permanence.
9. I consider that the proposed development would result in harm to the openness of the Green Belt, although the harm would be limited, as the proposal would also remove the garage from the rear/side garden area and would result in a more consolidated form of development.
10. Albeit small, there would still be a conflict with policy GBR1 of the LP and the Framework.

Other considerations

11. I have found that the scheme proposed comprises inappropriate development, which is, by definition, harmful to the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
12. I consider the demolition of the unsympathetic and incongruous first floor extension counts in favour of the appeal. The proposed extension would significantly improve the appearance of the property, rebalance the semi and enhance the street scene. This is a positive benefit to which I attach considerable weight.
13. As a result, the proposals would represent an improvement on the existing situation in terms of character and appearance.
14. I also consider the demolition of the single storey garage to the rear of the property also counts in favour of the appeal. Its removal would have the benefit of consolidating development on the site, resulting in less overall sprawl. This weighs in favour of the proposal. The appellants also claim there would be a benefit associated with the removal of asbestos within the garage and I concur with this.
15. These aspects are considerations that count in favour of allowing the appeal.

(d) 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 the development

16. The proposed extension would, having regard to the development plan and the Framework, constitute inappropriate development in the Green Belt. There would also be some harm to the openness of this part of the Green Belt. However, the removal of the existing garage, consolidation of development on the site and the removal of the incongruous first floor extension are material considerations to which I afford considerable weight. Given that the impact on the openness of the Green Belt would be limited, I consider the other considerations of sufficient weight to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness. Thus, very special circumstances necessary to justify the development proposed have been demonstrated. Accordingly, whilst there would be conflict with the development plan, the balance of planning considerations in this case lead me to the view that the appeal should succeed.

Conclusions

17. 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 included a further condition which relates to the presence of asbestos within the roof of the existing garage structure, as highlighted by the Council. This is required prior to the commencement of development, because of the potential for health impact.
18. For the reasons given above, and taking into account all other matters raised, I consider the appeal should be allowed.

Sian Griffiths

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: 11 June 2019

Appeal Ref: APP/J1915/W/19/3219816

**Land adjacent to the Birches, Farm Place, Bury Green, Little Hadham
SG11 2HA**

- 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 Brian Shea against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2006/FUL dated 7 September 2018 was refused by notice dated 3 January 2019
 - The development proposed is change of use of land to residential.
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Decision

1. The appeal is allowed. Planning permission is granted for change of use to residential at land adjacent to the Birches, Farm Place, Little Hadham, Bury Green SG11 2HA in accordance with the terms of the application, Ref 3/18/2006/FUL dated subject to the following conditions:
 - 1) The development hereby approved shall not extend beyond the boundaries set out in the proposal plan reference 13499-LP001-1st.
 - 2) The change of use hereby permitted shall cease and any structures or equipment brought onto the land for the purposes of such use shall be removed within 30 days of the failure to meet any one of the requirements set out in i) to iii) below
 - i) Within 3 months of the date of this decision, details of a) boundary walls, fences, or other means of enclosure and b) details of means of safe access between the development and the original garden area shall be submitted for the written approval of the local planning authority and the submitted details shall include a timetable for its implementation.
 - ii) The approved details shall be carried out and completed in accordance with the approved timetable.
 - iii) Upon implementation of the approved details specified in this condition, they shall thereafter be retained.
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development covered by Schedule 2, Part 1, Class E of the Order shall be carried out without planning permission granted by the Local Planning Authority.

Procedural Matter

2. The appeal proposal is retrospective as the appeal site has been incorporated into the appellant's garden. However, the boundary treatment and decking on the appeal site do not form part of this appeal.

Main Issue

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

Reasons

4. The Birches is one of a group of new dwellings on Farm Place which has a rural character. It is a large detached dwelling with a spacious garden to the rear. The appeal site is in a corner location and is a narrow roughly rectangular parcel of land which runs along the back of the garden and also behind the neighbouring property at No 2 Farm Place. Beyond the appeal site, there is a large field. To the south, there is mature vegetation.
5. The appeal site is a grassed area as is the field beyond. The northern boundary of the appeal site has a field type gate and a post and rail fencing. To the other side of the fence, there is an area of hardstanding that was being used for the storage of horse boxes and trailers at the time of my site visit. The same type of fencing continues along the longer western boundary with the adjacent field so that the appeal site and the area being used for horse equipment storage has one continuous boundary with the adjacent field.
6. An area of flat decking has been constructed to provide a bridge between the ditch between the original garden and the appeal site. The Council has referred to the ditch previously providing a distinction between the open nature of land and the garden area, but the ditch is not particularly prominent. Whilst the Council has referred to what it considers to be the unlawful removal of trees, I have limited information about the trees and, in any event, I am assessing the appeal proposal before me.
7. Whilst the appeal site does extend to the rear of No 2 Farm Place, it does not appear out of place as it forms a continuous line with the area beyond No 2, which is being used for storage of horse trailers and boxes. There are mature trees to the rear of No 2 Farm Place. The appeal site's corner location does mean that it is well related to other residential land and at the same time, wider rural views of the open fields beyond remain. The appeal site is currently open apart from the area of flat decking and fencing that are not part of this appeal.
8. I therefore do not find that the appeal proposal would harm the character and appearance of the area. Policy HOU12 of the East Herts District Plan October 2018(the District Plan) deals specifically with the change of use of land to residential garden and the supporting text refers to rural landscapes. I do not find the proposal to be in conflict with Policy HOU12 of the District Plan which states, amongst other things, that the change of use may be permitted if the proposal is not likely to result in an adverse effect on the character and appearance of the surrounding area and landscape, is well related to other residential land and not does involve a harmful incursion into the countryside and includes the provision of appropriate landscaping and boundary treatment.

9. Policy GBR2 of the District Plan lists certain types of development that will be permitted. All of the examples given relate to built development rather than a change of use but are acceptable provided that they are compatible with the character and appearance of the rural area. As I have found that the appeal proposal does not harm the character and appearance of the area, I do not find the appeal proposal to be in conflict with Policy GBR2 of the District Plan.

Other Matters

10. The appellant does state in his appeal statement that the removal of permitted developments rights by way of condition would give the Council control over the extended curtilage. The removal of permitted development rights is referred to in the supporting text of Policy HOU12 of the District Plan in paragraph 14.13.1. A key element of the appellant's case is that changing the use of the land with no other form of development would not have an adverse effect upon the character and appearance of its surroundings.
11. The Planning Practice Guidance does refer to exceptional circumstances existing to remove permitted development rights. However, I do consider that the location of the appeal site and the openness of the land does justify the imposition of such a condition. The Council has referred to not being able to control the use of garden furniture on the land but that does not overcome my findings due to its temporary nature.
12. The Council considers that a previous application that was refused is material to this appeal. However, I have limited details of the previous application and each application has to be assessed on its own merits. I note the objection of the Parish Council who are concerned about incremental development and would wish to see the removal of permitted development rights in the event of a grant. However, their objection, in itself, does not alter my findings.
13. Although a small corner of the appeal site to the south is within the Bury Green Conservation Area that is not cited as a reason for refusal by the Council and I see no reason to disagree with that assessment.

Conditions

14. As the change of use has already taken place, I have amended the usual plan condition to define the extent of the development. A condition is required to ensure that boundary treatments and safe access between the garden and the appeal site in view of the ditch are submitted to the Council for approval in the interests of good design and amenity. I am imposing a condition removing permitted development rights for the reasons previously given.

Conclusion

15. For the reasons given, the appeal is allowed subject to conditions.

E Griffin

INSPECTOR



Appeal Decisions

Site visit made on 21 May 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2019

Appeal A Ref: APP/J1915/W/19/3221608

Fairholme Stables, Archers Green Lane, Tewin AL6 0JF

- 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 Heronslea Group against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2211/FUL, dated 3 October 2018, was refused by notice dated 5 December 2018.
 - The development proposed is demolition of existing buildings and erection of 5no. dwellings together with associated parking amenity space and access from Archers Green Lane.
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Appeal B Ref: APP/J1915/W/19/3221609

Fairholme Stables, Archers Green Lane, Tewin, Welwyn AL6 0JF

- 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 Heronslea Group against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2212/FUL, dated 4 October 2018, was refused by notice dated 11 December 2018.
 - The development proposed is demolition of existing buildings and erection of 7no. dwellings together with associated parking amenity space and access from Archers Green Lane.
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Decision

1. Appeal A is dismissed and Appeal B is dismissed.

Procedural Matters

2. It is apparent that the Council, when refusing the planning application that is now the subject of Appeal B, added an additional reason for refusal (when compared to their determination of the application that is now the subject of Appeal A) related to the loss of existing equine recreational facilities at the site. However, the delegated officer report related to 3/18/2212/FUL (now the subject of Appeal B) highlights that the Council considers that the additional reason for refusal would equally apply to 3/18/2211/FUL (now the subject of Appeal A). This appears logical given that both appeal schemes would have the same effect on existing facilities. I shall therefore, in the interests of completeness and clarity, consider the effect of both appeal proposals upon equine recreational facilities. I do not consider that any party with an interest in this appeal is prejudiced by me doing so.

3. The appellant has submitted revised plans for both appeals (which are listed in paragraph 4.6 in each of the appeal statements submitted). These revisions, it has been explained, have sought to introduce pitched roof elements above windows and doors, to simplify the intended palette of materials and to confirm that 1.2m high post and rail boundary treatment is proposed to be consistently applied to the western boundary of the site. Because of the minor nature of the proposed amendments (taken in the context of each appeal proposal considered as a whole), I am content to determine each appeal based on the revised plans before me replacing the earlier iterations of the same plans determined by the Council. I am satisfied that no party is prejudiced by me doing so.

Main Issues

4. The main issues in both appeals are:
- Whether or not the proposals are inappropriate development in the Green Belt;
 - The effect of the proposals upon the character and appearance of the area;
 - The effect of the proposals upon equine recreational facilities;
 - If the proposals 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 development.

Reasons

Whether or not inappropriate development

5. The revised National Planning Policy Framework (February 2019) (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 or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. In this instance both proposals represent the complete redevelopment of previously developed land. Thus, I must consider whether or not the proposals would have a greater impact on openness when compared to the existing development on the site.
6. I note that whilst the Council has stated, in the case of each appeal, that development may constitute limited infilling (as opposed to complete redevelopment), it is apparent that they have assessed each appeal on the basis of the proposed plans before them and the intended full demolition and replacement of the existing buildings on the site (and thus a complete redevelopment of the site).
7. The appeal site contains 2 large buildings of simplistic rectangular form with pitched roofs. There are also areas of hardstanding in place alongside the buildings. The taller of the buildings is metal-clad and contains an indoor ménage. It also provides cover to an unenclosed area to its western side. The other building has a timber-clad finish and contains stabling as well as residential living quarters. Both buildings have a presence in the landscape

and are visible from various publicly accessible vantage points, including at different points along Archers Green Lane and from nearby footpath links situated to both the east and west of the Lane.

8. The development proposed in each of the appeals before me involves the construction of 2 blocks of terraced housing that loosely follow the positions/footprints offered by the 2 large buildings that would be replaced. In the case of both appeals, blocks of housing with interlocking dual-pitched roof elements are proposed that provide for front, rear and side-facing gables. The proposed dwellings incorporate a first-floor level of living accommodation.
9. In the case of both appeals, the full ridge height of the northernmost block of dwellings would closely follow the full ridge height of the existing metal-clad building. Although its proposed ridge running an approximate north-south axis would, in comparison, be set slightly lower in height. In the case of the existing timber-clad building, the southernmost block of replacement dwellings (in both appeals) would protrude above its full ridge height (yet, in comparative terms, slightly beneath the full ridge height exhibited by the existing metal-clad building).
10. With respect to both appeals, it is apparent that each block of housing would, in-part, cover land that falls outside of the footprints of each of the existing buildings to be replaced. Indeed, with respect to Appeal B, almost the entirety of the built extent of proposed Plot 1 would sit outside of the metal-clad building's footprint area and, when viewed alongside the other dwellings that are proposed, would appear as a significant built addition at the northern end of the site. In terms of the smaller southern block of 3 dwellings that is proposed under Appeal B, this would also extend beyond both ends of the timber-clad building that it would replace.
11. With respect to Appeal A, I acknowledge that excursions beyond existing built footprint positions would be limited when compared to those proposed under Appeal B. Indeed, at the southern end of the southernmost block of dwellings proposed, its southern side building line would be set in slightly (to the north) when compared to the southern side building line of the timber-clad building. The proposal (Appeal A) would still however involve narrow separation between the 2 blocks of dwellings proposed and result in wide coverage of the site (i.e. when considered on an approximate north-south axis).
12. I acknowledge that the built depth of the dwellings that are proposed, in both appeals, would be shorter in distance when compared to the depths of the existing buildings on site (i.e. when measured on an approximate east-west axis). The appellant has provided a comparison table to illustrate that, in overall terms, the extent of building footprint, cross-sectional area and building volume that is proposed in the case of each appeal would be less when compared to the existing on-site situation. The identified reductions would be most apparent with respect to Appeal A.
13. However, as set out in an appeal decision¹ that has been submitted in evidence, the measure of openness is not confined to the consideration of spatial dimensions. The visual effects of height, site layout and the use of space around the buildings also have a bearing on openness. Indeed, a number of appeal decisions relating to sites elsewhere appear in the evidence

¹ APP/L3625/W/17/3189035

before me and refer to the effects of proposed development on openness. I have given due consideration to these other decisions but note that material differences apply (when compared to the schemes under consideration here) and that each case must be considered on its own merits and in the context of its own surroundings.

14. I agree with the Council's assertion that the existing buildings, notwithstanding their scale, have a subdued and inconspicuous presence on the site and within their surroundings, appearing inherently rural and simplistic in their form and appearance. I am not persuaded that the design approach that has been followed with respect to both appeal proposals, whereby architectural variety and visual interest would be created, would assist in limiting effects on openness. Indeed, the variations in form (including punctuated rises in ridge height) and the busy nature of many of the proposed elevations and roof slopes would only assist in drawing prominence and attention to each of the proposals before me when compared to the existing buildings that are in place.
15. Various views of each of the appeal proposals would be available from Archers Green Lane whilst views would be available across the undulating and open agricultural land that is situated to the west of the site (most pertinently from public footpath routes that exist). The proposals would also be visible across agricultural land from public footpath links that are in place to the eastern side of the Lane, notwithstanding the presence of intervening planting.
16. With respect to Appeal A, a notable extent of site coverage is proposed. The development, noting that the height of the proposed dwellings would be broadly comparable to the heights of existing buildings on the site and noting the design approach that has been taken (as discussed above), would have a prominent effect on views experienced. This would particularly be the case from either the east or west of the site, given the intended alignment of dwellings along an approximate north-south axis.
17. Furthermore, the proposal (Appeal A), whilst providing for a reduction in the extent of hardstanding when compared to that which currently exists across the site, would provide residential garden areas of not insignificant size. These would extend to the rear beyond the extent of hardstanding that is in place to the west of the existing buildings. The introduction of regularly positioned post and rail boundary treatments is also proposed.
18. Whilst to be set at ground level and proposed to be accompanied by the introduction of new landscaping, a noticeable presence of residential paraphernalia associated with the domestic use of the proposed garden areas would be anticipated to result. This is particularly as these garden areas would, for the most part, be relatively tightly spaced. This is notwithstanding the potential to withdraw the future use of permitted development rights with respect to the erection of domestic outbuildings and/or additional boundary treatment.
19. As such, taking all relevant considerations in to account, including the present arrangement of buildings and function of external areas, the proposal (Appeal A) would result in a loss of Green Belt openness. It thus follows that the proposal subject to Appeal B, given the greater extent of built coverage that is proposed when compared to Appeal A, would also result in a loss of openness.

20. Furthermore, with respect to views that would be available from eastern vantage points relative to the site, it was apparent from inspection that the visual impact of the existing buildings is tempered by the existence of what appears as a strong and vigorous hedgerow that lines Archers Green Lane. As indicated on the plans before me for both appeals, a not insignificant stretch of this hedgerow would need to be removed in order to fully accommodate the new access arrangements that are proposed.
21. I acknowledge that, with respect to both appeals, replanting of a hedge of similar height is proposed (in addition to the planting of new tree specimens). Whilst the submitted Arboricultural Survey, Impact Assessment and Protection Plan alludes to re-planting providing satisfactory mitigation in the short term, I am sceptical that a hedge line of comparative vigour and robustness could be replaced instantaneously. It would instead reasonably be expected to take time to fully establish. Whilst not determinative, I consider this to be a further factor that would exacerbate the loss of openness that I have identified with respect to each of the appeal proposals before me.
22. For the above reasons, the proposals subject to both Appeal A and Appeal B, would be inappropriate development in the Green Belt and, in this regard, they 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 and that the essential characteristics of Green Belts are their openness and their permanence.

Character and appearance

23. The appeal site is located outside of the defined settlement boundary of Tewin and therefore forms part of the District's rural area. Whilst I accept that the site is not covered by any statutory or non-statutory designations for landscape character or quality, its immediate surroundings are dominated by undeveloped agricultural land that is inherently rural in character. Notwithstanding the current existence of living quarters within the timber-clad building, the existing buildings upon the site are simple and agricultural in their general character and appearance. Whilst the village's settlement boundary is located only a short distance away (on the opposite side of Archer's Green Lane and on an approximate northeastern orientation from the site), the existing buildings sit distinct and separate from existing development contained within the settlement boundary.
24. I accept that the proposals before me have been designed to seek to respect the local vernacular and the character and appearance of existing residential properties located nearby. Indeed, when compared to the existing buildings upon the site itself, the proposed dwellings would evidently assimilate more closely with residential development contained within the village. The issue however is that the site sits separate to where a distinctive edge to the village is formed and in a position typified by rural/agricultural surroundings. Whilst the site's existing buildings complement this host rural character and appearance and sit comfortably in this context, the proposed dwellings, in the case of both appeals, would appear at odds with these rural surroundings.
25. For the above reasons, the proposals subject to both Appeal A and Appeal B, would cause harm to the character and appearance of the area. The proposals would conflict with Policy DES4 of the District Plan in so far as this policy

requires that proposals will be expected to make the best possible use of the available land by respecting or improving upon the character of the site and the surrounding area.

Equine recreational facilities

26. Policy CFLR6 of the District Plan states that proposals that result in the loss of equestrian facilities should be accompanied by an Equestrian Needs Assessment to demonstrate that the facilities are no longer needed. Indeed, the supporting text to this policy states that such uses, including riding schools and stables, can fit in well with agricultural activities and help to diversify the rural economy.
27. However, the appellant has stated that the site has not been used for equine purposes for a number of years and I have not been presented with any clear contradictory evidence to disprove this assertion. From inspection, I noted no obvious signs within the stabling facilities of recent habitation by horses. There were also no signs of recent activity within the ménage. Indeed, notwithstanding the presence of a couple of jumping obstacles, the soil/sand floor inside the metal-clad building appeared undisturbed by any recent horse-related activity. In this context I consider that it would not be reasonable to insist that the appellant produce an Equestrian Needs Assessment to demonstrate that the facilities are no longer needed.
28. For the above reasons, the proposals in both Appeal A and Appeal B would not lead to harm being caused as a result of equine recreational facilities being lost and would not conflict with Policy CFLR6 (Equine Development) of the District Plan.

Other Matters

29. I note that various concerns relating to matters such as highway safety and the effect of the proposals upon the setting of a listed building have been raised by interested parties to these appeals. But, notwithstanding any associated statutory duties that would apply, as I find the developments unacceptable for other reasons it is not necessary for me to consider these matters further as part of these decisions.
30. 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 each of the proposals before me.

Whether very special circumstances exist

31. 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.
32. The proposals would deliver additional housing units (5 in the case of Appeal A and 7 in the case of Appeal B) and that the revised Framework reaffirms the Government's objective of significantly boosting the supply of homes. The proposals would also secure the efficient use of previously developed land and promote revenue benefits and resident expenditure in the local economy. I do

not dispute that high-quality accommodation would be provided alongside opportunities for home ownership. Furthermore, the newly proposed amenity/garden areas would provide recreational facilities for future occupiers.

33. These contributions, to which I apportion moderate weight in the case of both Appeal A and Appeal B, would not however clearly outweigh the significant harm identified to the Green Belt (including harm derived from loss of openness, which would be greater with respect to Appeal B when compared to Appeal A due to the quantum of development proposed) and to the character and appearance of the area so as to amount to the very special circumstances necessary to justify the proposals. Indeed, the revised Framework is clear that substantial weight should be given to any harm to the Green Belt. The proposed development, in the case of both Appeal A and Appeal B, conflicts with the development plan when read as a whole, and material considerations do not lead me to decisions otherwise.

Conclusion

34. For the above reasons Appeal A is dismissed and Appeal B is dismissed.

Andrew Smith

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: 06 June 2019

Appeal Ref: APP/J1915/W/19/3221628

Old Hall Cottage East, Kettle Green Lane, Much Hadham SG10 6AF

- 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 Christopher Nicola against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2261/FUL dated 12 October 2018 was refused by notice dated 11 December 2018.
 - The development proposed is conversion of existing builder's yard outbuildings to create a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

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. The main issues are (i) whether the appeal proposal is an employment site for the purposes of local policy and (ii) whether the appeal proposal would represent a suitable site for rural housing having regard to facilities and services.

Reasons

4. The appeal site is on Kettle Green Lane which is a narrow rural lane. It is roughly triangular and has a boundary with the lane with mature hedging. There is a pair of semi-detached dwellings Old Hall Cottage West and Old Hall Cottage East to the one side with countryside to the other. There are open fields to the north and to the south beyond Kettle Green Lane.
5. The appeal site currently consists of an outbuilding that resembles a garage and wooden buildings described as shed 1 and shed 2 with shed 1 being larger and irregular in shape which are both behind the garage and are to the north west corner of the appeal site. Sheds 1 and 2 would be converted to the main dwelling and the separate garage building would be a studio/garden room. Parking for two cars would be towards the other side of the appeal site and an existing access would remain.

Employment Use

6. The appellant indicates that the appeal buildings were last used commercially over 15 years ago as a coach builders yard. Whilst the Council has referred to a brewery business operating from the site, this is disputed by the appellant. He has stated that he is a keen home brewer and from my site visit, the limited storage use is more akin to hobby use.
7. However, Policy ED1 of the East Herts District Plan October 2018 (the District Plan) states that development which would cause the loss of a site which is currently or was last in employment use will only be permitted where certain criteria are met. Whilst the appellant has referred to the building being redundant, the policy would still apply as the last use was as a coach builders yard. The criteria refer to fully exploring the retention of the employment use and considering making improvements to the existing premises and undertaking discussions with officers with regard to potential and suitability of alternative uses. Whilst evidence of marketing of 12 months is referred to, a proportionate approach is recommended.
8. Whilst the appellant has referred to the state of the appeal buildings when he bought it, there is limited evidence of marketing or advertising in order to satisfy the requirements of Policy ED1 of the District Plan. The appellant states that no one has ever been employed there but the application refers to a coach builders yard which would have provided a form of employment and there is no dispute about that previous use taking place.
9. I therefore find that the appeal proposal would be in breach of Policy ED1 of the District Plan which states that, amongst other things, that development that was last in employment use would only be permitted where certain criteria have been met including the full exploration of the retention of the premises for Use Classes B1, B2 and B8 without success.

Suitable Location

10. Policy GBR2 of the District Plan provides for certain types of development to be permitted in the Rural Area beyond the Green Belt. The exception referred to by the Council refers to redevelopment of previously developed land whether redundant or in continuing use in sustainable locations where appropriate to the character and appearance of the area.
11. In policy terms, the appeal site lies within the Rural Area Beyond the Green Belt and the village of Much Hadham is around a mile away. Reference is made to cycling and walking as being alternative options to private vehicle. Whilst the appellant has referred to cycling events taking place that is not comparable to every day transport choices of future occupiers. Whilst the appellant has referred to a path halfway down the lane, given the rural location and the narrowness of Kettle Green Lane, I agree with the appellant's Design and Access Statement that the private vehicle will be the main mode of transport as opportunities to travel other than by private car are limited.
12. Whilst the appellant has referred to the village itself having a restricted bus service links, but that does alter the sustainable assessment of the appeal site. Paragraph 77 of the Framework refers to promoting sustainable development in the rural areas and states that housing should be located where it will enhance or maintain the vitality of rural communities. The location is not necessarily

isolated, but nevertheless, the provision of one dwelling would not maintain or enhance rural facilities in any significant way.

13. I do not consider that the appeal proposal is in a sustainable location. The appeal proposal would therefore be contrary to Policy GBR2 of the District Plan which, amongst other things, seeks to maintain the Rural Area beyond the Green Belt as a valued countryside resource subject to certain exceptions.
14. Whilst the Council has a concern about the urbanising effect of the hard surfacing for the car parking area, I do not share that view. The proposed plans show the car parking area to be modest with areas of landscaping and garden to be provided either side of the car parking area. The appellant has stated that the parking area is proposed to be gravel or a similar suitable permeable surface. Given the location of the appeal proposal and the screening on the lane with mature hedging, a combination of landscaping and highway conditions could have ensured the most appropriate solution for the outdoor and parking areas. However, the lack of harm arising out of the character and appearance does not overcome my findings with regard to the employment issue or sustainability.

Other Matters

15. Whilst the Design and Access statement has referred to a number of rural policies including change of use of an agricultural building, limited information is provided as to how those policies relate to the appeal site.
16. The appellant has referred to other sites that have been granted planning permission and which he considers to establish local precedent, but each scheme falls to be assessed on its own merits. In any event, I am unaware of the full circumstances associated with the other cases.
17. The support of the occupier of the neighbouring property does not in itself alter my findings. The appeal proposal would improve the appearance of the appeal site, but an improvement could also be achieved through exploring other uses.
18. The appeal proposal would make a very modest contribution of a single dwelling to the housing supply. Although the appeal site is previously developed land, the Framework states that the use of previously developed land is supported other than where this would conflict with other policies in the Framework. The Design and Access Statement suggests that the Council is not able to demonstrate a 5 year deliverable supply of housing but provides no further information other than that the weight must be attached to the provision of residential dwellings. Even if that were to be the case, the adverse impacts that I have found would significantly and demonstrably outweigh the modest benefits that would be derived from the development.

Conclusion

19. Limited work has been undertaken to establish whether the appeal site could be retained as an employment site and I have found that the appeal site is not in a sustainable location. For the reasons given, the appeal is dismissed.

E Griffin

INSPECTOR



Appeal Decision

Site visit made on 4 June 2019

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2019

Appeal Ref: APP/J1915/D/19/3226027

Ashbourne Manor, Medcalf Hill, Widford SG12 8SZ

- 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 Lester against the decision of East Herts Council.
 - The application Ref 3/18/2752/HH, dated 17 December 2018, was refused by notice dated 12 February 2019.
 - The development proposed is 'erection of 8ft high acoustic wooden fence along part of the front boundary of the property. It will be positioned such that the hedgerow is not disturbed'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has confirmed that despite its decision notice not including reference to the revised versions of the submitted plans, it did have regard to these revised plans in reaching its decision. The appellant confirms also that these are the correct plans and, accordingly, I have had regard to the same ones in my consideration of this appeal.

Main Issues

3. The main issues are the effect of the proposed fence on trees and other planting, and related to this the effect on the character and appearance of the appeal site and surrounding area; and its effect on the setting of the Grade II listed Ashbourne Manor.

Reasons

4. The appeal site is part of the linear planted boundary to the south-eastern corner of the large grounds belonging to Ashbourne Manor. The fence would run from the corner entrance gate for some 80 metres or so to a point just beyond the Manor itself, which is located close to this boundary fronting the road.

Trees and Character and Appearance

5. The boundary of Ashbourne Manor in which the fence would be sited is a narrow belt of trees, shrubs and other planting of mixed species, size and
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maturity. I note that the appellant has invested in this planting and acknowledge that it would not be in his interests to unduly disturb or otherwise damage the trees and other vegetation that is in place. Nonetheless, given the extent of the fence and requirement for appropriate foundations, it appears that there would inevitably be some disturbance to this existing planting; but I accept also that this could be addressed in large part either through providing gaps to incorporate mature trees or replacing vegetation that is unavoidably damaged during the construction of the fence, which could be required by condition as suggested.

6. However, the fence would be an extensive structure, eight feet high and some 80 metres in length running along the boundary, parallel with and close to the road. Despite the planting that exists and any additional planting that might be provided, it would not be possible entirely to screen the fence from view. Indeed, due to its overall size and length and the fact that the form of planting to the boundary naturally has small gaps in it and is not so dense to prevent any views through to the grounds of the Manor, the fence would be visible from the road and surrounding land.
7. The surrounding area is highly rural and verdant with hedgerows and other planting forming field boundaries or frontage boundaries to the small number of properties in the vicinity of the appeal site. The appeal site currently reflects these characteristics. The scale and appearance of the fence as a man-made feature in this otherwise natural setting would appear incongruous and uncharacteristic, thereby drawing the eye and making it more prominent than it otherwise might be in a more urban setting.
8. Accordingly, for these reasons, while I conclude that the proposed fence would not have a harmful effect on trees and other planting to the site's boundary, it would result in material harm to the character and appearance of the appeal site and surrounding area. Consequently, it is contrary to Policy DES4 of the East Herts District Plan (2018), which requires all development proposals to be of a high standard of design and layout to reflect and promote local distinctiveness. This policy is consistent with the National Planning Policy Framework (the Framework), particularly section 12 concerning well-designed places.

Listed Building

9. I note that the parties do not dispute that the fence would be located within the setting of the Grade II listed building. I agree with this, particularly given the proximity of the building to the location of the fence.
10. The appellant contends that the fence is a common feature of conventional design and appearance, and that the Manor itself is a relatively plain structure. I have found above, however, that the fence would be an extensive and prominent feature of substantive height and length that would have a harmful effect on the character and appearance of the area. This largely rural character and appearance is also part of the setting of the listed building, which, despite any views on its design, is as a matter of fact a designated heritage asset. It follows, therefore, that the extent and appearance of the fence would be harmful to the listed building's setting, particularly due to its proximity to the building. The fact that the listed building is not highly visible from the public

realm is not a determinative factor in the above findings that the fence would harmfully affect the heritage asset's setting.

11. I give little weight to the appellant's comparison with the scale of fences permissible under permitted development rights. Such rights are not applicable within the setting of a listed building due to the sensitivity of such locations and the protected status of these designated heritage assets. I accept that the appearance of the fence may change over time due to weathering, but this would not be sufficient to mitigate the overall effects of its scale, solidity and presence.
12. I note the appellant's suggestion that the height of the fence could be reduced to two metres. However, I am required to consider the proposal as submitted and due to the extent of this change it would not be appropriate to take account of it in reaching a decision in this case. In reaching the above findings I am particularly mindful of the statutory requirements for decision makers to have special regard to the desirability of preserving the setting of a listed building¹.
13. Therefore, for the above reasons, I conclude that the proposed fence would have an unacceptably harmful effect on the setting of the Grade II listed Ashbourne Manor. As such, it is contrary to Policy HA1 of the Local Plan, which requires development to preserve and where appropriate enhance the historic environment; and to Policy HA7 also of the Local Plan, which concerns listed buildings and includes the requirement that proposals that affect the setting of a listed building will only be permitted where the setting of the building is preserved. These policies are consistent with the Framework.
14. Where there is a harmful effect on the significance of a designated heritage asset which is less than substantial harm, which would apply in this case, the Framework requires the harm to be weighed against the public benefits of the proposal (paragraph 196). The appellant contends that the improvements to the residential environment and living conditions resulting from the fence will ensure that residential occupation and upkeep of the listed building is continued. However, there is no specific evidence to support this contention in terms of the levels of noise associated with the residential use or that the lack of a fence of this type would realistically result in the building not being occupied. As such, I give limited weight to these arguments and they do not overcome the harm and conflict with development plans policies that has been found above.

Conclusion

15. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR

¹ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.



Appeal Decision

Site visit made on 4 June 2019

by J L Cheesley BA(Hons) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th June 2019

Appeal Ref: APP/J1915/D/19/3226913

Crumps Farm, West Road, Sawbridgeworth, Hertfordshire CM21 0LJ

- 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 Bill Woods against the decision of East Herts Council.
 - The application Ref 3/19/0258/HH was refused by notice dated 9 April 2019.
 - The development proposed is demolition of existing garage and erection of replacement garage.
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider the main issue to be whether the proposal would amount to inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies, and if so, 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 proposal.

Reasons

3. The Framework explains that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. The construction of new buildings in the Green Belt is inappropriate unless in accordance with exceptions in the Framework. One exception is the replacement of a building, providing the new building is in the same use and not materially larger than the one it replaces.
 4. Policy GBR1 in the East Herts District Plan (2018) states that planning applications in the Green Belt will be considered in line with the provisions of the Framework.
 5. The appeal building comprises two adjoining buildings. The front building is a garage with an up-and-over door. This adjoins a building to the rear, which is of agricultural barn appearance. The proposed garage would be repositioned to overlap the footprint of the existing building and be set forward towards Crump
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- Farmhouse. It would not be materially larger than the building it would replace.
6. The Council has stated that given the history of site, the rear building is likely to have been for agricultural or equestrian storage. The planning application site includes existing buildings adjacent to the dwelling which are currently being converted to commercial units. In these circumstances, it does not follow that the rear building is necessarily part of the domestic curtilage. Its appearance is more in keeping with these former equestrian/farm storage buildings undergoing conversion.
 7. Whilst the planning application is for a replacement garage and at the time of my site visit, there were vehicles parked in the building to the rear, the appellant has clearly stated in representations that the appeal involves the replacement of the linked garage and storage outbuilding.
 8. The rear building has large double doors wide enough for vehicles to enter. However, in their central location, the doors require vehicles to be parked at an angle within the building. This is not a usual design for a domestic garage, where one would expect a much wider entrance, similar to that proposed in the replacement building.
 9. There is no evidence to suggest that the rear building has been used for domestic storage. There are no shelves or other storage containers or structures one would expect to see in an outbuilding of this size used for domestic storage.
 10. The front building is clearly a domestic garage. Nevertheless, having considered the use of the adjoining building to the rear, for the above reasons, I have reached the conclusion that the new building would not be in the same use as the one it would replace. Thus, the proposal would constitute inappropriate development in the Green Belt.
 11. Due to the scale and siting of the proposed garage, I do not consider that it would diminish the sense of openness of this part of the Green Belt. Nevertheless, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Other Considerations

12. The *Planning (Listed Buildings and Conservation Areas) Act 1990* imposes duties requiring special regard to be had to the desirability, at Section 16(2), of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
13. The Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
14. Crumps Farm House is a Grade II listed building, a designated heritage asset. Its significance is derived from the traditional design. The listing description includes reference to a large early C17 timber farmhouse, including early C18 red brick additions.
15. The proposed garage would be situated to the rear of this farmhouse. It would be constructed in painted timber boarding, with a brickwork plinth and clay roof tiles. From my observations, due to the design and siting of the proposal, I

consider that it would appear as a subservient building that would preserve the setting of the farmhouse and the significance of this heritage asset. Therefore, I have attributed some weight to this matter in my determination of this appeal.

16. The appellant has stated that if the Council believes the linked outbuildings are not in a residential use, then an application for their re-use for garaging in association with Crumps Farm House would not be inappropriate development and be likely to be successful, as would a subsequent application for their replacement for that purpose. The appeal process should not be used to evolve a scheme. It is not for me to determine such a proposal which is not before me. Therefore, I have attributed limited weight to this matter in my determination of this appeal.

Conclusion

17. In reaching my conclusion, I have had regard to all matters raised. It is necessary to determine whether there are other considerations which clearly outweigh the harm to the Green Belt, and any other harm, hereby justifying the proposal on the basis of very special circumstances. For the reasons stated above, in my opinion the considerations advanced in support of the proposal do not clearly outweigh the harm it would cause to the Green Belt. In conclusion, I am of the opinion that there are no material factors that would amount to the very special circumstances needed to clearly outweigh the presumption against inappropriate development in the Green Belt. Thus, the proposal would be contrary to policy outlined in the Framework and Policy GBR1.

J L Cheesley

INSPECTOR



Appeal Decision

Site visit made on 20 May 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2019

Appeal Ref: APP/J1915/W/18/3211815

The Stables, Land adjacent to Sacombe Corner Wood, Frogmore Hill, Aston, Herts SG14 3RS

- 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 Gary Madgin against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/2786/FUL, dated 1 December 2017, was refused by notice dated 20 March 2018.
 - The development proposed is a change of use of stables to residential use.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time the Council determined the application, the Development Plan was the East Herts Local Plan 2007. The Council adopted the East Herts District Plan on the 23rd of October 2018 and this now forms the development plan for the area.
3. The application was determined prior to the publication of the revised National Planning Policy Framework (2018)(the 'Framework'). The parties have been given the opportunity to comment on the implications of this on the appeal. During the course of the appeal a further revised Framework (February 2019) was published. As policies of the Framework that are material to this case have not changed fundamentally, I have taken it into account in reaching my decision and am satisfied that this has not prejudiced either party.

Main Issues

4. The Council advise that the site falls within an area of the Green Belt. Because national policy on Green Belt must be considered, the main issues are:
 - Whether the proposal would be inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework; and
 - Whether the appeal site is a suitable location for the proposed development having regard to access to local shops, community facilities and bus services and to local and national policy.

Reasons

Whether inappropriate development

5. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 146 of the Framework establishes that certain forms of development are not inappropriate in the Green Belt, provided that they preserve its openness and do not conflict with the purposes of including land within it. The re-use of buildings of permanent and of substantial construction is identified under this paragraph. Policy GBR1 of the East Herts District Plan (EHDP)(October 2018) states that planning applications within the Green Belt will be considered in line with the provisions of the National Planning Policy Framework.
6. The appeal building is of permanent and substantial construction and would therefore fall to be considered under this exception set out in the Framework. The proposal would not result in any additional built development and permitted development rights could be withdrawn via condition to ensure that there is no loss of openness. Given that the building is already upon the site, the proposal to change its use to a residential dwelling would not result in a loss of openness to the Green Belt, or conflict with the purposes of including the land within it. I therefore conclude that the proposal would not represent inappropriate development within the Green Belt, nor would it conflict with Policy GBR1 of the EHDP or the Framework (2019).

Suitability of the site for housing

7. The appeal site is located in a generally rural area off Frogmore Hill, a single track road which serves a small number of other properties. The Council cited Paragraph 55 of the Framework of the National Planning Policy Framework (2012) in its reason for refusal. Whilst the Framework has since been revised, the general approach has been carried forward in the 2019 Framework in Paragraph 79. Whilst there are a number of other properties along Frogmore Hill, Pumping Station Cottages, these are physically and visually detached from the appeal building which sits to the south of Frogmore Hill Road in isolation. Moreover, the appeal site is not within an identified settlement. I therefore conclude that, for the purposes of applying Paragraph 79, the proposed dwelling would be isolated.
8. Paragraph 79 of the Framework states that decisions should avoid the development of isolated homes in the countryside unless certain circumstances apply, including that the development would re-use redundant or disused buildings and enhance its immediate setting. The appellant asserts that the appeal building is redundant and has submitted evidence indicating that the site has limited potential for office, workshop and storage uses. However, the stables appeared in good condition at the time of my site visit and whilst it was not occupied by horses, I see no reason why it could not be used as such in the future.
9. Whilst it is proposed to remove the ménage, it is located outside the appeal site and there is no mechanism before me to secure its removal. I am therefore unable to afford this matter weight. Thus, even if I were to conclude that the appeal building is redundant, the proposal would not enhance its immediate setting.

10. Paragraph 78 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Although not specifically referenced by the Council in its reason for refusal, I have been provided with a copy of Policy TRA1 of the EHDP which has similar aims to Paragraph 78 and states that development should primarily be located in places which enable sustainable journeys to be made to key services and facilities to help aid carbon emission reduction.
11. The appeal site is divorced from Aston and, given the general lack of footpaths and street lighting along the roads to the settlement, I consider future occupants are unlikely to choose to walk there. This would be particularly the case for those with limited mobility, parents with young children or at night, or in inclement weather. Future occupants are therefore likely to be highly reliant on private car.
12. Although there are some facilities in Aston, including a primary school, public house, cricket ground, village hall and church, I consider these are unlikely to meet the day-to-day needs of future occupants and consider it likely that it would be necessary for future occupants to travel further to access other facilities and services.
13. I accept that the equestrian use would generate vehicle movements and that the number of daily movements which would be generated by the appeal scheme would be modest. Nevertheless, future occupants would have a limited choice of transport mode, contrary to the objectives of the Framework, and the overall aim of the East Herts District Plan to reduce the need to travel. This is a significant factor weighing against the scheme.
14. Whilst the appeal site comprises previously developed land, given its isolated location I attach limited benefit to the reuse of the building. The appeal scheme would make a very limited contribution towards housing needs within the area and would provide limited economic benefit during construction and occupation of the dwelling. These benefits would not outweigh the harm arising from the site's unsuitable location with poor access to local facilities and services. I therefore conclude that the appeal site is not a suitable location for the proposed development, contrary to Policy TRA1 of the EHDP and the Framework.

Other Matters

15. The Council advise that following adoption of its District Plan in 2018, Policies HOU12, DES3 and TRA3 are of relevance. Policy HOU12 of the EHDP relates to residential garden land and, whilst of relevance, since the effect of the garden on the character and appearance of the countryside is not in dispute, has therefore not been determinative in my consideration of the appeal. Policy TRA3 relates to vehicle parking provision and Policy DES3 relates to landscaping, which are also matters which are not in dispute and have therefore not been determinative in my consideration of the appeal.

Conclusion

16. There is no substantive evidence before me that the appeal should be determined other than in accordance with the development plan, and no benefits are before me of sufficient weight to outweigh the harm I have

identified, including the provision of additional housing, to which I attach limited weight in the circumstances before me. For the reasons given above, and taking into account all matters raised, I therefore dismiss the appeal.

M Savage

INSPECTOR



Appeal Decision

Site visit made on 19 June 2019

by **John Morrison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 June 2019

Appeal Ref: APP/J1915/W/19/3225623

35 Burnham Green Road, Burnham Green AL6 0NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr P Smith against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/1536/FUL, dated 4 July 2018, was refused by notice dated 1 October 2018.
 - The development proposed is the erection of a replacement dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are three main issues. These are
 - Whether the proposed development would be inappropriate development in the Green Belt;
 - The effect of the proposed development on the openness of the Green Belt; and
 - If the proposed development would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposed development.

Reasons

Background

3. The appeal site is enclosed by a mix of timber fencing, construction hoarding and mature planting. It is currently devoid of physical development save for some storage containers, a trailer and some construction equipment. It is in its current state due to the fact that the dwelling the appeal scheme seeks to replace has been demolished. This has been following the commencement of an approved scheme for a replacement dwelling that was granted in December of 2016 (Council Ref 3/16/2000/FUL). By virtue of this action, according to the evidence, this scheme remains extant. I shall return to this later.

Inappropriate Development

4. Saved Policy GBC1 of the Local Plan¹ sets out that the construction of new buildings in the Green Belt will be inappropriate development. A stance also explained by paragraph 145 of the Framework². GBC1 stipulates that one of the exceptions to this principle is replacement dwellings. Whilst GBC1 points to what the Council identify as an out of date policy, paragraph 145 of the Framework goes on to specify (in the case of the erection of replacement buildings) that such should be in the same use and not materially larger than the one it replaces.
5. Whilst I agree with the appellant that there is no hard and fast definition of what constitutes 'materially larger' it seems to me from the proposed plans that the replacement in this case would be a generously proportioned two storey dwelling which, as explained by the figures quoted in the written evidence, would be more than a substantial uplift on the footprint, floor space and volume of the one that was previously on the site. Whilst I don't have details before me on the appearance of the previous dwelling, there is indication that it was a relatively modest, modern two storey dwelling. The proposals have the impression of a much grander, broader and significantly more imposing building with large rooms and a substantial land take.
6. With these factors in mind, I can make no conclusion other than that the proposed replacement dwelling in this case would be a building materially larger than that one it replaces. Thereby inappropriate development in the Green Belt. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt.

The Openness of the Green Belt

7. Paragraph 133 of the Framework states that the essential characteristics of Green Belts is their openness and permeance. It has been established that openness has both a visual and spatial aspect.
8. As I have said, I do not have visuals of the dwelling that was on the site prior to its demolition before me. However, and according to the Council's evidence which the appellant does not appear to dispute in this respect, it seems to have been a relatively modest two storey modern building as I have identified above. As I have also alluded to, the proposed replacement would be grand, of a tall and imposing appearance with a contained but broad footprint. The appeal site is relatively secluded but the proposed building, due to its scale and height, would not be unnoticeable. Put simply, it would take up a noticeable amount of additional space. There would therefore, by virtue of the impression of the increased size of the new dwelling, be a reduction in the visual aspect of the Green Belt's openness.
9. The demolished dwelling had a footprint of, again taken from the Council's evidence which the appellant does also not disagree with in this respect, 68 square metres. Its floor space was 125 square metres and it had a volume of around 430 cubic metres. Taking the appellant's measurements of the one proposed as part of the appeal scheme, it would have a footprint of 127 square metres, a total floor area of 226 square metres and a volume of 923 cubic metres. Purely on the face of the figures, this would be a building more than

¹ East Hearts Local Plan Second Review 2007

² The National Planning Policy Framework 2019

twice the overall size of the previous that occupied the site and by virtue of this, there would again be an unavoidable reduction in the spatial aspect of the Green Belt's openness.

10. This reduction in the openness of the Green Belt would result in harm to one of its essential characteristics. It would be harm in addition to that caused by the appeal schemes inappropriateness.

Other Considerations

11. The appellant's case in favour of the appeal scheme relies heavily on the extant scheme. It appears from the evidence that, in granting this planning permission, the Council attached weight to green energy solutions and carbon neutrality, how the previous dwelling could have extended and the fact that a proportion of the new volume was below ground.
12. Whilst I shall come onto environmental sustainability credentials and extensions later, it appears from the appellant's measurements that the appeal scheme before me would be smaller in each respect than that which has been approved. On the one hand therefore one could perhaps argue that there is both a fall back position to consider and that the appeal scheme could have a net less impact on the Green Belt's openness.
13. I do not however agree with such an argument. Firstly, the relevant test in terms of development of this type in the Green Belt applies to the building a replacement would replace and not what might have been granted planning permission before. Secondly, the proposal in this case would have all of its volume above ground. The plans do not show a basement. In the visual sense therefore, it would have much more of a presence and therefore more obvious and real time reducing effect on the openness of the Green Belt's visual and spatial aspects. Thirdly, the contained and concentrated bulk of the proposed dwelling in this case, when also taking into account the above ground volume, lead me to conclude that the approved and extant scheme would not be a sufficiently comparable fall back position to justify the appeal scheme. Particularly given how much larger it is than the previous dwelling that occupied the site.
14. Returning to the permitted size of the extant scheme, it seems to me that the Council took into account both what could theoretically be added to the previous dwelling under permitted development as well as some that had the benefit of planning permission and/or a lawful development certificate. Be this as it may, the dwelling to which those related has been demolished. Consequently, the relative sizes and volumes any extensions accounted for have equally fallen. I would not therefore be able to take them into account in the same way in the context of what is proposed as part of the appeal scheme.
15. The appellant has provided, through an energy statement, details of measures that are intended to be incorporated into the proposed dwelling. There are a number and from the statement appear to be photovoltaic solar panels, air source and ground source heat pumps and a waste water heat recovery system. It also appears to be the case that the fabric of the building would be an enhancement over the previous in terms of its thermal efficiency. These measures are eminently achievable and laudable. The building however would have to have a degree of thermal efficiency to comply with building regulations and the measures suggested in the energy statement are mostly retrofitted

technologies readily available to other existing dwellings. They are not therefore important to the design philosophy of the building. The measures do not strike me as unique nor integral to the building. By virtue of these factors it does not seem to me that the dwelling would necessarily be exemplar. Whilst I have agreed they would be positive, the weight I would ascribe to these measures in this respect would not be significant for the reasons I have set out.

16. It appears that the Council do not object to the design of the proposed dwelling per se and as an example of its type in the context of those around it I would not disagree. The scheme would also provide for sufficient in curtilage vehicle parking and would not be unduly harmful to occupiers of neighbouring dwellings. These are however lacks of harm in each area and would thus be neutral in any balance. They could not be used to weigh against harm.
17. It seems the weight that the Council attached to the low to zero carbon technologies on the previous scheme was sufficient to, along with other matters, constitute very special circumstances. Whilst I do not have the extent of those previously proposed before me, based on what I have seen and for the reasons I have given I do not consider that they should carry as much weight. Apportioning weight is a matter for the decision maker in each case and very special circumstances, by definition, is a high test indeed.

Conclusion

18. I have identified that the proposed development would be inappropriate development in the Green Belt and it would fail to preserve its openness. This would yield multiple harms as well as result in conflict with saved Policy GBC1 of the Local Plan and the Framework which together seek to ensure the essential characteristics of the Green Belt are protected. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt. For the further reasons I have given, I am of the view that there are no other considerations of such sufficient weight to constitute the very special circumstances that would be necessary to justify the proposed development in this light.
19. The appeal is therefore, whilst having regard to all other matters raised, dismissed.

John Morrison

INSPECTOR