



Appeal Decisions

Site visit made on 20 August 2019

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 3 October 2019

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

**Great Hadham Golf & Country Club, Great Hadham Road,
Much Hadham SG10 6JE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Great Hadham Country Club Limited against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/2502/FUL, dated 23 October 2017, was refused by notice dated 1 February 2018.
 - The development proposed is change of use from golf course to golf course with leisure lodges.
 - This decision supersedes that issued on 2 October 2018. That decision on the appeal was quashed by order of the High Court.
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Appeal B: APP/J1915/W/18/3203036

**Great Hadham Golf & Country Club, Great Hadham Road,
Much Hadham SG10 6JE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Great Hadham Country Club Limited against East Hertfordshire District Council.
 - The application Ref 3/18/0329/FUL, is dated 13 February 2018.
 - The development proposed is change of use from golf course to golf course with leisure lodges.
 - This Decision supersedes that issued on 2 October 2018. That Decision on the appeal was quashed by order of the High Court.
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Decision Appeal A

1. I allow the appeal and grant planning permission for change of use from golf course to golf course with leisure lodges at Great Hadham Golf & Country Club, Great Hadham Road, Much Hadham SG10 6JE in accordance with the terms of the application, Ref 3/17/2502/FUL, dated 23 October 2017 and drawing numbers 2017/13-PL2 and PL3, subject to conditions 1) to 7) on the attached schedule.

Decision Appeal B

2. I allow the appeal and grant planning permission for change of use from golf course to golf course with leisure lodges at Great Hadham Golf & Country Club, Great Hadham Road, Much Hadham SG10 6JE in accordance with the terms of the application, Ref 3/18/0329/FUL, dated 13 February 2018 and drawing

numbers 2017/13-PL2 and PL3, subject to conditions 1) to 7) on the attached schedule.

Applications for Costs

3. Applications for costs were made by Great Hadham Country Club Limited against East Hertfordshire District Council. These applications are the subject of separate Decisions.

Preliminary Matters

4. The third Reason for Refusal in the original application that is now Appeal A concerned an alleged lack of information regarding surface water drainage. The appellant supplied a '*Flood Risk Assessment and Surface Water Strategy*' and the Council did not pursue that objection at appeal in either case.
5. The Refusal Notice cited policies of the East Herts Local Plan Second Review April 2007, as well as what was described as the Draft District Plan. The East Herts District Plan was adopted on 23 October 2018, following the lifting of a Holding Direction of 11 September, and the Council has supplied a list of the adopted policies that are considered relevant to the appeals.
6. The Officer's Report states that both the Local Plan and the Draft District Plan refer to mobile homes as being considered as though they were for a normal residential occupation and therefore the policies relating to residential development apply. Hence, it appears from this and Reasons for Refusal 1, 2, 4 and 5 that the Council dealt with the application as being for residential development, the proposal being described as contrary to the aims and objectives of the then Policies GBC2 and GBC3, the latter policy excluding residential development as a use that would be permitted in the rural area beyond the Green Belt.
7. It is appropriate that the first main issue in these appeals should be to test this assumption, and on the basis of that finding the second main issue should consider which policies are relevant and test the proposal against them.

Main Issues

8. For the reasons set out in the Preliminary Matters above, the main issues are;
 - The nature of the development.
 - Compliance with the relevant policies.

Reasons

The Nature of the Development

9. The description of development used in the bullet points to the Appeal headings above is taken from the Council's Refusal Notice in Appeal A, and adequately describes the proposal. The Application Forms stated; '*change of use from leisure land just as a golf course, to leisure land as a golf course with leisure lodges - this change and diversification of use is absolutely essential following the bankruptcy and administration of the business on 27 October 2016 because as a golf course alone it is not financially viable*'; in both cases the word 'leisure' appears.

10. The phrase referred to in the Officer's Report regarding mobile homes being residential appeared in paragraph 3.16.1 of the Local Plan and is now found in paragraph 14.5.1 of the District Plan, and reads '*applications for planning permission are sometimes received by the Council for a number of special residential uses, such as caravans, mobile homes, houseboats, and other residential institutions. All of these uses will be considered as though they were for a normal residential building and the policies relating to residential development will apply*'. That is no doubt true where an application has been made and received in those terms, and Policy HOU9 relates to one such situation, the provision for gypsies and travellers. The appellant makes clear that the proposal is for a leisure use in support of the other leisure uses at the site, and that should not be characterised as 'normal residential' occupation.
11. Generally, and in line with the case '*I'm Your Man Ltd v Secretary of State for the Environment (1998)*', even where the description of development purports to contain a 'limitation' as to use, any essential restrictions such as an occupancy condition or other limitation should, for the avoidance of doubt, be secured by condition.
12. As set out in paragraph 55 of the Framework, conditions should be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. These 6 tests are referenced in the Planning Practice Guidance with a cross reference to guidance on the use of model conditions (Paragraph: 003 Reference ID: 21a-003-20190723). The succeeding paragraph setting out how a Council would ensure the 6 tests are being met has been deleted. There is also the test resulting from the case '*Newbury District Council v Secretary of State for the Environment (1981)*' that conditions must be for a planning purpose and not for any ulterior one, be fairly and reasonably related to the development, and not be 'Wednesbury' unreasonable.
13. The requirement here is for a condition limiting the use of the site to that applied for. Such a condition would pass the tests of being necessary in order to avoid the policy objections referred to in the Reasons for Refusal and would as a result be relevant to planning and to the development to be permitted. Such a condition would be reasonable in all other respects if it had the desired effect and would pass the 'Newbury' test.
14. The Council suggested 3 conditions of relevance to the controlling the use as follows;

Condition 7 Within 3 months of the decision, a management plan shall be submitted in writing to the local planning authority detailing how the site will be managed. The management plan shall include how the golf club will manage occupancy of the leisure lodges and record keeping of the occupancy of each leisure lodge. The development shall be implemented and maintained in accordance with the details approved in writing for the life of the development. The appellant objects to this as being excessive and unnecessary. It is noted that the York, Weeley and Oswestry Appeal Decisions submitted by the appellant contain a requirement for records to be kept and be made available for inspection, but they may relate to a different arrangement of ownership and control. In the present case the appellant replied to a post-event question with regard to ownership, and whilst lodges may be 'sold' the freehold would be retained and site-fees charged to cover infrastructure and other services. The

site owner would therefore have ready access to the lodge owners so that any queries over occupation and whether it is a sole home could be followed-up. The suggested condition is not necessary in this case.

Condition 8 Occupiers of leisure lodges hereby permitted at the site shall be restricted to a maximum 14 day stay duration within any three-month timeframe. This is objected to by the appellant and does appear unnecessarily restrictive given the objective of conditions. Owners may well let for such 2 week periods, but no harm would occur if, say a 3 week period was chosen, and they may themselves wish to stay longer; the key requirement is that the lodges should not be the occupant's sole and/or main place of residence, and this condition does not add further to the next proposed condition. It therefore fails the test of being necessary.

Condition 9 The leisure lodges shall be used for holiday purposes only and shall not be used at any time as the occupant's sole and/or main place of residence. This is a standard condition for such uses, and the appellant suggested a similar but negatively worded version, and also made reference to various Appeal cases where a similar format had been utilised. The 'Peterborough' wording is the more precise, referring as it does to any replacement lodges or caravans, and it is the case that whilst the permission would run with the land, the lodges or caravans stationed on that land could be replaced as they have a finite life, unlike a 'bricks and mortar' dwelling. The condition would not be impossible to enforce, and whilst the Council have concerns that it could not be 'readily enforced' that is a different test. It can be enforced due to the retention of access to owners to collect site fees and in that light, the suggestion that an Obligation would be preferable is contrary to the advice in paragraph 54 of the Framework that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition, and that is not the case here.

15. To conclude on the nature of the development, the use would be a leisure one and not full-time main residential, and that can be secured by condition. On that basis the second main issue will determine which policies are relevant to that proposal and the degree of compliance.

Compliance with the Relevant Policies

16. The existing enterprise comprises the extensive grounds of the golf course, with an 18-hole course that appeared in excellent condition with well-kept greens and fairways, and pleasant landscaped margins. A 9-hole 'par 3' course was in poor condition and temporary greens were in use for foot-golf involving players kicking a football into large holes away from the intended greens. A small putting green and a driving range completed the outdoor sporting facilities. The car parking was adequate but not in good condition, but the clubhouse facilities appeared varied, well-used and well-maintained. These included well-equipped fitness studios, hairdressing, sauna and treatment rooms, as well as the bar and function rooms, the premises being licensed for weddings. A further building contained the grounds maintenance machines that would be expected at a golf course.
17. The submissions made clear the intended functional link between the use of the lodges and the facilities that would be available to occupiers, together with the financial link to assist in the viability of the club. There is a likely synergy between the uses, and they are certainly compatible.

18. On the adoption of the District Plan, the Council supplied details of adopted policies including some that were not referred to in the Reasons for Refusal.

Policy GBR2. It is the case that whilst general residential development is not permitted in the rural area beyond the Green Belt, uses related to outdoor recreation would be permitted, and the policy remains relevant to the appeals. The Local Plan Policy CBC3 allowed for '*essential small-scale facilities for outdoor sport and recreation*', while the adopted Policy GBR2 refers just to '*facilities for outdoor sport, outdoor recreation and equine development*', which this proposal accords with, provided they are compatible with the character and appearance of the area. The lodges are sited in an elongated group to one side of the main club buildings and would relate well to both the built form and the open fairways, with some tree cover softening the effect. Their finish and low height blends well with the surroundings and the landscaping and layout of access tracks and would be appropriate to the rural surroundings. The proposal accords with Policy GBR2.

Policies TRA1, TRA2 and TRA3. The second reason for refusal alleged an unsustainable location and that appears predicated on the mobile home being an occupier's sole home, particularly with reference to employment and services. Policy TRA1 on sustainable transport concerns all development proposals and remains relevant to the appeals, but as a leisure use that is suitable to the rural area, and having mind to the other uses being carried out on the wider site, the somewhat isolated location is acceptable. With regard to Policies TRA2 and TRA3 on highway access and parking provision, these requirements are met.

Policies HOU1, HOU2 and HOU3. The lack of provision for affordable housing as sought in Policy HOU3 was the subject of Reason for Refusal 4 but in view of the finding on the nature of the development none of these policies are relevant to these appeals.

Policies DES2, DES4, and DES5. whilst the matter of residential amenity is of less concern in a non-residential development, the requirements of these policies with regard to design and landscape remain relevant. The spacing of the lodges appears in-line with such leisure uses as are proposed, and the landscaping of the site as considered under Policy GBR2 can be secured by condition. The design of the lodges is a standard product but those seen in place and the one entered indicated a high standard of construction and fit-out. These policies are therefore met.

Policies ED2 and ED5. The expansion of existing businesses in the rural area is supported by Policy ED2, and Policy ED5 supports new tourism enterprises and extensions to existing enterprises. The appeal proposals are a tourism enterprise that is appropriately located and would provide for a need for high quality accommodation close to existing sport and recreation facilities, assisting in their viability. The proposal would result in the formation of new jobs or the safeguarding of existing rural employment and both policies are complied with.

Policy CFLR1 The provision of open space, sport and recreation in residential and commercial development together with the retention of existing provision is the subject of this policy and the appeal proposals would assist in the furthering these aims.

Policies NE3 and NE4. The appeal proposal would be well-integrated with the existing natural environment of the golf course and would not have an adverse effect on species, habitat or the green infrastructure.

Policies CC1 and CC2. The lodges are a standard product and would be heated by combination boilers fed from a central gas storage tank. Such lodges are an acceptable method of accommodation for the leisure use proposed and the layout would integrate green infrastructure with the retention of trees and further soft landscaping secured by condition. Climate change mitigation should be seen in the light of the intended use.

Policies WAT1, WAT5 and WAT6. These policies contain requirements to address flood risk, sustainable drainage and wastewater infrastructure and the contents of the '*Flood Risk Assessment and Surface Water Strategy*' have been accepted as complying with these policies.

Policy EQ1. Concerns contaminated land and whilst there is reference to imported fill material having been used to re-profile the land for the golf course use, that was described as 'inert'. The site of the lodges was seen to be based in part on road-scalpings with some bricks, and did not appear to be contamination. The policy is complied with.

19. Relevant sections of the National Planning Policy Framework include;

Paragraph 8. The statement of a social objective of accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being would be met.

Paragraph 83. The proposal would be in line with the aim of supporting a prosperous rural economy by the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; the development and diversification of agricultural and other land-based rural businesses; and sustainable rural tourism and leisure developments which respect the character of the countryside.

Paragraph 84. This states that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport, and hence the location does not count against the proposal.

Paragraph 124. The proposals meet the statement that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

20. Concern has been expressed over the need for a formal link between the income from the lodges and the club. The proposal has been found acceptable in its own right through compliance with Development Plan policies and should not be considered as a form of 'enabling development'. That concept, more usually applied to the funding of repairs to listed buildings, allows for development that would be contrary to policy to go ahead provided there is that link between the funds generated and the recipient building. In those cases the development should be the minimum necessary to provide the funds. No such considerations apply here although the success of the lodge scheme would rely on the facilities of the club being maintained and enhanced, such that the provision would be likely to have that beneficial effect.

21. To conclude, the proposed leisure use would satisfy the relevant Development Plan and national policies on the protection of the environment, and would further the aims of policies that seek a prosperous rural economy, and the provision of outdoor sport and leisure facilities. The appeals should be allowed and planning permissions granted, but subject to conditions that, among other things, limit the occupation of the lodges.

Conditions

22. The Council had suggested conditions, but there was limited agreement from the appellant. It is necessary in any event to consider the suggested conditions against the tests previously mentioned, and they are dealt with in number order from the Council's list and with reference to section 7 of the appellant's Appeal Statement of June 2018, as follows;

Condition 1 list of drawings. This condition allows a developer to apply for minor changes prior to commencement and is standard practice. It is however not appropriate in a retrospective application and will not be attached, although it is appropriate to list the drawings in the Formal Decision.

Condition 2 archaeological investigation. The County Council Historic Environment Unit stated that remains of Iron Age or Roman periods had been found in trial pits in various location around the golf course, but that no pits had been dug in the area of the lodges. However, the lodges do not rely on foundations, are 'temporary' structures albeit a permanent permission would be granted, and no harm would be caused to any remains likely to be buried below the level of fill seen at the site inspection. The proposal is not likely to have an impact on heritage assets, although if such are found, work would need to stop. This condition is not necessary or reasonable and is not related to the development proposed.

Condition 3 external lighting. Notwithstanding the appellant's statement of their being no intention, a condition should be attached preventing external lighting other than what has been submitted and approved, in view of the rural location.

Condition 4 landscaping scheme. Drawing PL3 is not an adequate landscaping scheme and this Decision relies on the retention of trees and softening of the effect by additional landscaping. The part-retrospective nature of the development does not alter that finding.

Condition 5 & 6 drainage. A condition requiring compliance with the 'Flood Risk Assessment and Surface Water Strategy' is necessary to regularise the situation and to ensure that works have been carried out correctly, and that the system is retained. The fact that the works have been carried out already is no reason to delete this requirement.

Conditions 7, 8 and 9 controlling occupancy and leisure use. These have been considered earlier in this Decision and only number 9 will be attached, using the 'Peterborough' format.

Condition 10 in the event of the golf club operation ceasing. This is unnecessary and would unduly restrict the management of the lodges and their sale. The lodges are acceptable and in line with Development Plan and national policies, and this restriction would place unjustifiable and disproportionate financial burdens on the appellant, and as stated in the Planning Practice

Guidance, would be unreasonable (Paragraph: 005 Reference ID: 21a-005-20190723, first bullet point).

Condition requested by County Council on hydrants. This requirement would be technically difficult and costly, and the risk to life would be small due to the dispersed nature of the lodges and the ready access to a place of safety for occupiers. The centralised gas storage further lowers the risk. The Council accept that a Fire Management Plan would be an alternative. Such a Plan would be a reasonable approach to ensure that occupiers were aware of procedures on discovering a fire and of assembly points.

23. A further condition as was attached to the 'Weeley' Appeal Decision submitted by the appellant, stating the maximum number of lodges, is required in order to control the scale of the development.
24. Following these deliberations, the conditions contained in the Schedule at the end of this Decision meet the 6 tests referenced in the Planning Practice Guidance and the 'Newbury' test, and whilst 2 permissions are granted as a result of there being 2 appeals, the conditions are identical in each case and are cited once only.

Conclusions

25. The proposal is for a leisure use that is in-line with national and local policy as set out above, and conditions can ensure that the occupation of the lodges is limited to that use and does not fall into any permanent residential use. For the reasons given above it is concluded that both appeals should be allowed.

S J Papworth

INSPECTOR

SCHEDULE OF CONDITIONS FOR BOTH APPEAL A AND APPEAL B

- 1) The lodges hereby permitted, including any replacement lodges, shall not be occupied other than as holiday accommodation. They shall not be used at any time as the sole and principal residence by any occupier.
- 2) No more than 26 lodges shall be stationed on the site at any time.
- 3) No external lighting shall be installed or used other than for which details have been previously submitted to and approved in writing by the Local Planning Authority.
- 4) Within 3 months of the date of this Decision, full details of both hard and soft landscape proposals shall be submitted for the approval of the Local Planning Authority. These details shall include, as appropriate:
 - (a) Proposed finished levels or contours
 - (b) Means of enclosure to individual plots

- (c) Car parking
- (d) Other vehicle and pedestrian access and circulation areas
- (e) Hard surfacing materials
- (f) Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units and signs,)
- (g) Retained landscape features such as trees and hedges and proposals for protection and retention, where relevant
- (i) Planting plans
- (j) Written specifications (including cultivation and other operations associated with plant and grass establishment)
- (k) Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate
- (l) Implementation timetables.

Thereafter the development shall proceed in accordance with the approved details and timetable and shall be retained thereafter.

- 5) The development permitted by this planning permission shall be carried out in accordance with the '*Flood Risk Assessment and Surface Water Strategy*' for the proposed development prepared by Innervision Design Ltd (project No.18821 – February 2018). The drainage scheme shall include the provision of permeable paving or similar permeable surface with sub-base to adequately manage the volume generated by all rainfall events up to and including the 1 in 100 year plus climate change event and ensure pollution control. The mitigation measures shall be fully implemented prior to the occupation of further lodges and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.
- 6) Upon completion of the drainage works an updated management and maintenance plan for the all the SuDS features and structures must be submitted to the Local Planning Authority and shall include arrangements to secure the operation of the scheme throughout its lifetime.
- 7) Within 3 months of the date of this Decision a Fire Management Plan detailing the information to be given to occupiers and on procedures in place to deal with a fire or other emergency, shall be submitted for the approval of the Local Planning Authority and the approved Plan shall be implemented thereafter as approved.



Costs Decisions

Site visit made on 20 August 2019

by **S J Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State

Decision date: 3 October 2019

Costs application in relation to Appeal Ref: APP/J1915/W/18/3195491 Great Hadham Golf & Country Club, Great Hadham Road, Much Hadham SG10 6JE

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Great Hadham Country Club Limited for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the refusal of planning permission for change of use from golf course to golf course with leisure lodges.
 - This Costs Decision supersedes that issued on 2 October 2018. The Appeal Decision on the appeal was quashed by order of the High Court.
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Costs application in relation to Appeal Ref: APP/J1915/W/18/3203036 Great Hadham Golf & Country Club, Great Hadham Road, Much Hadham SG10 6JE

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Great Hadham Country Club Limited for a full award of costs against East Hertfordshire District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for change of use from golf course to golf course with leisure lodges.
 - This Costs Decision supersedes that issued on 2 October 2018. The Appeal Decision on the appeal was quashed by order of the High Court.
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Decisions Appeal A and Appeal B

1. I allow both applications for an award of costs in the terms set out below.

Reasons

2. The Planning Practice Guidance advises that parties in planning appeals and other planning proceedings normally meet their own expenses, but that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. (Paragraph: 027 Reference ID: 16-027-20140306)
3. The appellant considers that the Council behaved unreasonably in refusing permission for the first application and failing to determine the second one, and that the proposal is supported by relevant Development Plan policies and by the National Planning Policy Framework. The appellant further considers that the Council behaved unreasonably in not accepting the information on surface

water drainage submitted at the application stage, and this resulted in the need to produce a flood risk report which should not have been necessary. A full award of costs is sought in both appeals.

4. In what is now Appeal A, the Council refused the first application for 5 reasons, 4 of which appear to have been predicated on the application being for residential development that would be a person's sole residence. That came from a misunderstanding or mis-reading of the supporting text of the Housing Policies on how mobile homes may be dealt with. The application was clear that the lodges were for leisure purposes. It should have been clear that the Housing Policies were not applicable, and that the locational policies in the then Local Plan for rural areas beyond the Green Belt, now District Plan Policy GBR2, provides for leisure uses in rural areas, as does national policy.
5. Those 4 reasons were wrongly based and the Council failed to substantiate them at appeal, making vague, generalised or inaccurate assertions about a proposal's impact, which were unsupported by any objective analysis. The leisure use applied for could have been secured by condition and the non-policy compliant residential use, if that was a legitimate concern, could have been prevented. The Council therefore refused planning permission on a planning ground capable of being dealt with by conditions. (Paragraph 049 Reference ID: 16-049-20140306 bullet points 2, 3 and 4).
6. The third Reason for Refusal concerned the lack of a flood risk assessment and this requirement is reasonable. The appellant's view that being at the top of a hill obviates that need is over-simplistic, as replacing open ground with the lodge roofs could have an adverse run-off effect downhill. In the event the appellant did commission and submit an acceptable flood risk assessment, dated February 2018, whereas the Refusal Notice for Appeal A was dated 1 February 2018.
7. An appeal against that refusal was an option open to the appellant and that option was taken, by Appeal Form dated 8 February 2018. On 13 February 2018 the appellant also took the other option open to them of making a fresh application for an identical development proposal, but this time with the benefit of the flood risk assessment.
8. Appeal B concerns a failure to determine this second application. Although the appellant objects, a Council that has failed to determine an application is fully entitled under the appeal procedure rules to submit putative reasons for refusal, as if they had determined the application. This allows an appellant and the appointed Inspector to know for certain what the concerns are and to be able to progress the appeal. Failure to determine does not debar a Council from taking full part in the appeal process to defend those putative reasons for refusal.
9. Those putative reasons for refusal maintained the objections over the Housing Policies based on the mis-understanding or mis-reading previously referred to, but without the objection on flood-risk grounds.
10. As a result, Appeal B displays the same failings on the part of the Council as in Appeal A, and because there was no other, reasonable, objection, since the flooding issue had been overcome, the Council in addition prevented and delayed development which should clearly be permitted, having regard to its

accordance with the Development Plan, national policy and any other material considerations (Paragraph 049 Reference ID:16-049-20140306 bullet point 1).

11. There was therefore unreasonable behaviour on the part of the Council in both appeals, and this has resulted in unnecessary expense to the appellant. Strictly and as reflected in the Costs Order below, Appeal A is a partial award of costs since there was a reasonable reason for refusal, while Appeal B is a full award as the appeal should not have been necessary. In the event both appeals ran together and were for identical development proposals and with identical planning issues, since the Council did not contend the flood-risk issue in Appeal A. Nevertheless, quantum is not a matter for these Costs Decisions.
12. 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 in Appeal A and a full award of costs is justified in Appeal B.

Costs Orders Appeal A and Appeal B

13. 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 Great Hadham Country Club Limited, the costs of the appeal proceedings, limited in Appeal A to those costs incurred in respect of reasons for refusal 1, 2, 4 and 5, but not so limited in Appeal B; such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. 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.

S J Papworth

INSPECTOR



Appeal Decisions

Site visit made on 11 June 2019

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2019

Appeal Ref: APP/J1915/W/19/3221072

22 West Street, Hertford SG13 8EX

- 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 O Giddings and Mrs S Giddings against the decision of East Hertfordshire District Council.
 - The application Ref: 3/18/1988/HH, dated 5 September 2018, was refused by notice dated 1 November 2018.
 - The development proposed is a single storey rear infill extension and internal alterations.
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Appeal Ref: APP/J1915/Y/19/3221539

22 West Street, Hertford SG13 8EX

- 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 Mr O Giddings and Mrs S Giddings against the decision of East Hertfordshire District Council
 - The application Ref: 3/18/1989/LBC, dated 5 September 2018 April 2018, was refused by notice dated 1 November 2018.
 - The works proposed are a single storey rear infill extension and internal alterations.
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Decision

1. The appeals are dismissed.

Main Issues

2. The main issues are: whether the proposal would preserve 22 West Street part of a Grade II listed building (it is listed with No 20), and any of the features of special architectural or historic interest that it possesses; and, the extent to which it would preserve or enhance the character or appearance of the Hertford Conservation Area.

Reasons

3. The appeal building is part of 20-22 West Street and was first listed in 1973. The listed building is a hall house which is now sub-divided into two properties. It was originally built in the late fifteenth century and altered in the eighteenth century. During the nineteenth and twentieth centuries rear outshuts were added. It is a timber framed building and the ground floor is finished in black painted brick while the jettied upper floor is white painted plaster. It has a tiled roof which has been partly replaced by clay tiles. There is a pyramidal roof

over the two storey rear outshut and a twentieth century pantiled roof over the single storey outshut which extends beyond this point. There is a yellow-grey brick chimney stack which is forward of the main roof ridge. The door to No 22 is on the left flank elevation alongside studwork beneath the jetty with brickwork of the external chimney breast to the right. The building is a two storey 3 bay Wealden pattern hall house with a central bay.

4. The appeal dwelling occupies the west wing of the original property and the ground floor front room has exposed heavy wide spaced studs and an eighteenth century corner cupboard with shouldered architraves and a segmented head. Much of the original crown post structure remains in situ and internally there remains evidence of the original timber structure in the existing wall separating the dining room and kitchen, including the timber studs which are proposed to be exposed as part of the current scheme. There are two abutting nineteenth century windows serving the existing dining room which, although altered, form part of the important historic fabric of the property. The special interest of this building lies in it being a comparatively late example of a classic Wealden House with many of the original features, including the timber frame, openings and timber studs. It has been extensively altered over time, but the eighteenth and nineteenth century alterations and additions form part of the evolving historic fabric of the structure.
5. The simple design of the rear outshut is indicative of its functional use. It is a subservient part of the building. Nonetheless there is integrity in this part of the structure in terms of its construction and original materials, including lime plaster. As such, it is of historic and architectural interest.
6. The site is situated in the Hertford Conservation Area. This part of the Conservation Area is dominated by listed buildings. At the eastern end of West Street the buildings, which include the appeal property, are mainly domestic. The buildings in this locality are characterised by attractive historic frontages with subservient rear elevations where there have been, additions and alterations.
7. The proposal is for a single storey rear extension which would have a depth of approximately 6.4 metres, a maximum width of approximately 2.2 metres, an eaves height of approximately 2 metres and a maximum height (including the glazed roof) of approximately 3.1 metres. The proposal would fill an area between the eastern elevation of the existing kitchen and dining room with the boundary wall of the adjoining property, 20 West Street and a WC and store structure. The appellants have stated that the extension would enable them to stay in the house, making use of an unused area of external space and outdoor toilet to provide improved internal accommodation, including an indoor toilet, utility room and storage space.
8. The property has already been substantially altered and extended and, although there is some debate as to the actual percentage increase in footprint that would arise from the proposal, it is clear to me that the extension would lead to a significant increase in the footprint of this historic building. Of greater concern is the infill nature of the extension which would not be a traditional way of extending such a property and would distort the historic footprint.
9. In addition, the relatively shallow roof form along with the rather odd triangle of wall along the eaves with the existing outshut would constitute an uncomfortable design to the detriment of the visual appearance of the external

- of the building. It is also noted that the extension would result in the removal of two abutting nineteenth century windows. The appellants contend that the windows in question are not an original part of the hall house but are later additions and there is no mention of them in the listing. That may be the case, but, nonetheless, the building is listed as a whole and the openings in question are an integral part of its historic fabric even though they have been altered using modern methods. The loss of such historic fabric would fail to preserve features of historic interest that the building possesses and so should only be allowed where there is compelling reason to do so.
10. It is also proposed to remove a section of internal wall and to expose some of the timber studs. However, these works would also include removing lathe and lime plastering to the dining room wall. This is an important part of the historic fabric of the building and would be lost without clear and adequate justification. As such, the internal works proposed would also fail to preserve historic fabric of the listed building which is a feature of particular interest.
 11. Given the above, I find that the proposal would fail to preserve the special interest of the listed building. Paragraph 193 of the Framework advises that when considering the impact on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
 12. Section 72 of the Act requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Due to the position of the proposed extension at the rear of the property, and within a relatively confined rear garden area, it is unlikely that the extension would be prominent from public or private views other than those experienced within the immediate surroundings of the property's garden. However, given the harm to the historic and architectural interest of the building and the poor relationship to the pair of listed buildings, it would fail preserve or enhance the character or appearance of the Hertford Conservation Area.
 13. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The proposal would improve the living accommodation for the occupants, including providing additional accommodation. The appellants have also stated that they wish to conserve the house which they have already spent considerable money on. However, it is clear to me that the proposal would have only very limited public benefit.
 14. Given the above and in the absence of any significant public benefit, I conclude that the proposal would fail to preserve the special historic interest of the Grade II listed building. As such, it fails to satisfy the requirements of the Act, paragraph 192 of the Framework and conflicts with Policy HA7 of the East Herts District Plan October 2018 (the District Plan). Among other objectives this seeks to sustain and enhance the significance of listed buildings and explains that extensions to listed buildings will only be permitted where there would be no adverse effect on the building's architectural and historic character or appearance.

Conclusion

15. For the above reasons and having regard to all other matters raised I conclude that the appeals should be dismissed.

A A Phillips

INSPECTOR



Appeal Decision

Site visit made on 17 September 2019

by **Matthew Woodward BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th October 2019

Appeal Ref: APP/J1915/W/19/3231889

Land between Bowyers Cottage and St Marys Church, The Causeway, Furneux Pelham, SG9 0LN

- 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 R Williams against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2269/FUL, dated 6 February 2018, was refused by notice dated 31 December 2018.
 - The development proposed is a new residential dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's decision notice refers to 'Grade I Bowyers Cottage' in describing a nearby listed building. Having consulted the Historic England listing description, Bowyers cottage is Grade II listed. I have dealt with the appeal on this basis.
3. The appellant's statement of case was accompanied by an Ecology Report which was not submitted with the planning application. The Council have had an opportunity to comment on it within the statutory timescales for appeals. As a result, my acceptance of the additional report would not disadvantage interested parties. Therefore, I have considered the Ecology Report as part of this appeal and determined it on this basis.

Main Issues

4. The main issues are:
 - Whether the development would preserve or enhance the character or appearance of the Furneux Pelham Conservation Area and whether the setting of nearby listed buildings would be preserved; and,
 - The effect of the development on biodiversity.

Reasons

Character and appearance

5. The appeal site comprises an irregular shaped parcel of land which is partially overgrown and surrounded by several large trees which are the subject of a

- Tree Preservation Order (TPO). A public footpath (the footpath) lies to the east, falling in between the appeal site and the Church of St Marys, a Grade II* listed building. Bowyers cottage, a Grade II listed building, fronts the road and lies close to the western boundary of the site. The appeal site lies within Furneux Pelham Conservation Area (CA). There is no dispute between the main parties that the principle of infill development in this village is acceptable.
6. A conservation area appraisal for the CA has not been submitted to me but I have based my assessment of the significance of the CA on my site visit and the evidence before me. Furneux Pelham has a quintessentially rural English village feel, which is defined by a bespoke assortment of traditional properties and several significant listed buildings. Views of properties from the street are softened by the presence of numerous mature trees and planting. There are several areas of green space which intersperse buildings on the street, reinforcing the verdant character of the village. These attributes contribute to the character and appearance of the area and significance of the CA.
 7. The Grade II* listed Church of St Marys comprises an impressive 15th Century building which includes a number of historic architectural elements typical of religious buildings of this age. It is set back from The Street behind an open burial area. The grounds of the church are contained by a low-set boundary wall and large, well-established trees, which contribute to the significance of its setting. The Grade II listed 'Bowyers' sits in less open surroundings, being contained by several trees and positioned close to the road. Its significance mainly derives from the prominent appearance of its facade and the traditional materials, fenestration pattern and architectural detailing of the building as a whole.
 8. The proposed dwelling would be situated behind several large trees which are the subject of a TPO. A new access driveway would be positioned in between two of the trees. The dwelling would comprise a two-storey building, with additional habitable space in the roof, of vernacular style, with materials which would be in keeping with the locality. Despite the Council's concerns regarding the position of the proposed dwelling to the rear of the appeal site, I observed several examples in the area where parking was located in front of properties, and the layout proposed would be in keeping with the diverse arrangement of individual properties within the CA.
 9. Nevertheless, the scale of the proposed dwelling and the use of the land around it for domestic purposes, would be a permanent encroachment into an undeveloped area of green space. Whilst I appreciate that views of the proposal would be reduced due to the extensive foliage along the site frontage, and the additional landscaping proposed, the gap created in order to facilitate the access would increase the prominence of the proposal from the street. Furthermore, there would be obtrusive views of the proposal from the footpath so that the existing verdure of the land adjacent to it would be diminished, to the detriment of the rural village character of the area. The loss of the green gap between existing buildings would be harmful to both the character and appearance of the CA.
 10. The dwelling would be positioned so as not to interrupt views of the listed cottage or church, with vegetation and trees providing a substantial foil. The scale, design and appearance of it relative to these assets means that the proposal would not harm the significance of the setting of the listed buildings.

However, this does not detract from the harm I have identified in respect of the character and appearance of the CA.

11. Heritage assets are an irreplaceable resource, and therefore any harm requires clear and convincing justification. In accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 I must pay special attention to the desirability of preserving or enhancing the character or appearance of the CA, which I have done in reaching my decision.
12. I appreciate that the appellant has carefully designed the appeal scheme, having regard to a recent refusal of planning permission on the appeal site for a slightly larger dwelling¹ (previous planning application). Consequently, the proposal would retain the protected trees and be less conspicuous from the street than the previous planning application. I also appreciate that the proposal would provide an additional residential dwelling in order to contribute to local housing delivery at a time when the appellant alleges the Council are falling short of their delivery targets. There would be additional potential biodiversity benefits through the provision of trees, new habitats, a pond, and bumble bee boxes. However, having considered these as potential public benefits, I am not satisfied that collectively they would be sufficient to outweigh the less than substantial harm I have identified.
13. For the foregoing reasons I conclude that the development would be contrary to Policies HA1, HA4, VILL2 and DES4 of the East Herts District Plan October 2018 (the District Plan) which require, amongst other matters, that development preserves or enhances the character and appearance of an area, including conservation areas, and is in keeping with the village. The development would also conflict with paragraph 196 of the Framework as the public benefits would not outweigh the less than substantial harm.
14. As I do not find harm to the setting of the listed buildings I have referred to, I do not find any conflict with Policy H7 of the District Plan in this case.

Biodiversity

15. An Ecology Report accompanies the appeal which was not available to the Council when they determined the planning application. Despite having the opportunity to do so as part of this appeal, the Council have not commented on the report.
16. According to the submitted Ecology Report, there are no sites of national or local importance within 500m. However, whilst there are no arboricultural objections to the required felling of an existing Ash tree within the appeal site, a limb failure associated with the tree makes it a possible bat roost location. Due to the height of the opening within the tree, no survey work has been undertaken to ascertain the suitability of it to support a bat roost. In the absence of further survey work, given the location of the tree and the roosting opportunity that exists within the gap in the tree, and the presence of potential commuting and foraging areas that surround it, and the confirmed presence of bats in the nearby church grounds, I therefore consider that there would be at least a reasonable likelihood of bats being present on the appeal site.
17. Without more definitive survey work concerning the bat activity within the appeal site, I do not know if a license would be required. I am unable to

¹ East Hertfordshire District Council planning reference - 3/13/0910/FP

conclude with any certainty whether the provision of several bat boxes as proposed by the appellant would be an appropriate form of mitigation without first knowing the extent of any potential adverse effects.

18. In addition, the surveys undertaken to inform the Ecology Report included recordings of Great Crested Newts (GCN's) within 100m of the appeal site where ponds are present. Direct access to the site for GCN's would be affected by the road that lies in between the site and the surveyed pond. Furthermore, the report indicates that the appeal site is sub-optimal for GCN's due to the extensive tree cover which would reduce basking opportunities, and a lack of objects which could be used for shelter.
19. However, the Ecology Report also recommends that a further destructive search of the site should be carried out by a suitably qualified person prior to any works taking place on site. The report notes that a license from Natural England may be required, depending on the findings of the search. Having regard to the recorded presence of GCN's nearby, and the additional survey recommendations of the Ecology Report, I am unable to ascertain that GCN's and/or their terrestrial habitat would not be affected by the development. Consequently, I am not able to rely on the provision of habitats as mitigation/enhancement without having a complete understanding of the impact the development would have on GCN's.
20. As such, and in the absence of suitably robust evidence to the contrary, I conclude that the development would fail to accord with Policy NE3 of the District Plan which requires, amongst other matters, that development enhances biodiversity and creates opportunities for wildlife. It would also conflict with paragraph 170 of the Framework which requires development to minimise impacts on biodiversity.

Other Matters

21. Even if I was to accept the appellant's assertion that the Council are unable to demonstrate a 5 year housing land supply, footnote 6 of paragraph 11 of the Framework effectively disengages the tilted balance where a proposal would result in harm to a heritage asset, as is the case here.
22. Even though the Council's Conservation Officer did not object to the previous planning application, I have had regard to all the evidence before me submitted as part of this appeal and concluded on the main issue relating to the impact on the CA accordingly.
23. A historic planning permission relating to a new dwelling was granted in the 1960s but given the significant change in policy context since that date, and the fact that the planning permission is not extant, it only carries limited weight in the determination of this appeal which does not outweigh the harm I have identified.
24. I have been provided with evidence of several other cases where planning permission has been granted for new dwellings by the Council or on appeal on sites that have some similarities with the one before me. However, each of the cases involved either a replacement dwelling, an extension to an existing dwelling, or was located in a different part of the village. I am not satisfied that the circumstances of these cases are sufficiently similar to the appeal scheme such that it would warrant me reaching a different conclusion on the

main issues. I have determined the appeal case on its own merits, whilst having regard to the evidence submitted.

Conclusion

25. For the reasons given above I conclude that the appeal is dismissed.

Matthew Woodward

INSPECTOR



Appeal Decision

Site visit made on 18 September 2019

by **I A Dyer BSc (Eng) MIHT**

an Inspector appointed by the Secretary of State

Decision date: 8 October 2019

Appeal Ref: APP/J1915/W/19/3232599

Pinewood School, Hoe Lane, Ware, SG12 9PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs M Fuller against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2300/FUL, dated 12 October 2018, was refused by notice dated 12 February 2019.
 - The development proposed is vehicular access to No. 2 Walnut Tree Walk.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: -
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2019 (the Framework) and any relevant development plan policies, including any relevant effects on the openness of the Green Belt, and: -
 - Whether 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 required to justify the proposal.

Reasons

3. The appeal site, described as 'House No 2', lies within the grounds of Pinewood School, which is a special needs school, close to the southern boundary with Walnut Tree Walk. It contains a detached dwelling, and between the dwelling and the road is a garden containing mature trees close to the boundary. The boundary itself is a close boarded timber fence. There is mature planting and a footpath running along on the north side of Walnut Tree Walk, close to the boundary of the school. Walnut Tree Walk is bounded on both sides by mature planting and has the character of a rural lane.
4. The proposal would remove two trees within the garden and take down a length of fence to create a new vehicular access onto Walnut Tree Walk, giving onto a driveway, parking for two vehicles and a manoeuvring area. Currently the dwelling has two allocated parking spaces within the school grounds, but to access these, the residents of the dwelling need to pass through the school grounds.

5. There is no dispute that the site lies within the Metropolitan Green Belt. Paragraph 146 of the Framework makes provision for certain forms of development, including engineering operations such as those proposed, as being not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Paragraph 143 of the Framework is clear that inappropriate development is by definition harmful to the Green Belt.
6. Policy GBR2 of the East Herts District Plan 2018 (the District Plan) requires that planning applications within the Green Belt, as defined on the Policies Map, are considered in line with the provisions of the Framework.
7. The Framework identifies that the fundamental aim of the Green Belt is “to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”.
8. The proposal would introduce parking and its associated paraphernalia into an area within the garden of House No 2. The proposed access would open up the southern boundary of the site by removing part of the fence and planting, providing views into the garden from Walnut Tree Walk and the footpath running alongside it. The urbanising effect of the proposal would, therefore, be visually intrusive in the context of the rural lane. Given that openness as a concept has both a spatial and a visual dimension, I find the increased urban presence on the site and the visibility of that urbanisation from the public realm would result in a harmful loss of openness.
9. Green Belt serves five purposes. The proposed development would, by virtue of the parking and increased area of hard surfacing, fail to assist in safeguarding the countryside from encroachment. As a result, it would conflict with the purposes of including land within the Green Belt, which is one of the five purposes of the Green Belt.
10. I conclude, therefore, that the proposal would amount to inappropriate development in the Green Belt. The proposal is therefore contrary to Policy GBR2 of the District Plan 2018 and the Framework. I attach substantial weight to the harm to the Green Belt that arises by reason of inappropriateness. Further, the proposal is contrary to the provisions of Policies DES3, DES4, TRA2 and TRA3 of the District Plan which, amongst other things require development to: demonstrate how they will retain, protect and enhance existing landscape features which are of amenity; avoid significant detrimental effect on the character of the local environment; and reflect and protect local distinctiveness

Other considerations

11. The proposal would provide access and off-street parking for the dwelling without the necessity of travelling through the school grounds. It is argued that the proposal would reduce the number of motor vehicle movements within the school site, thus reducing conflict between vehicles and pupils. The reduction in conflict between motor vehicles and vulnerable pedestrians would be a benefit in favour of the proposal. However, I have little evidence before me of the existing level of conflict resulting in injury or other harm or that the removal of the parking demand from the dwelling would result in such a significant decrease in vehicle movements within the school site as to translate to any significant reduction in vehicle/pedestrian conflict. Further, there is no evidence before me that, should parking provision be made within the appeal site, the

existing use of the parking spaces serving the dwelling would be permanently removed and by removal, reduce the number of vehicle movements within the school site.

12. The appellant argues that the proposed parking could be provided within the site by provision of access from the internal circulatory road within the school site as permitted development. However, even should such a proposal be built, views of the parking and hard surfacing would be screened from the public realm by the planting and hedge alongside Walnut Tree Walk and so the visual harm to openness that I have identified above would not result.
13. The provision of a separate access would facilitate the use of the dwelling without traffic from the domestic use mixing with school traffic, particularly if the dwelling were to be sold or let to persons not associated with the school. Should the link cease between the site and the school this would provide a benefit in terms of increased security for the school and its pupils. At the time of my site visit the dwelling was occupied and so I have little evidence before me that the separation of the dwelling from the school would result in an additional dwelling becoming available, regardless of any need for additional further within the area.
14. There would be likely minor benefits to the local economy in terms of short term employment in the construction industry. Taken together these benefits carry moderate weight.
15. The appellant argues that provision of an independent means of access would facilitate the possible future sale of the dwelling to secure additional school funding. I have limited evidence before me regarding the sustainability of the school and so this matter attracts limited weight.

Conclusion

16. The Framework establishes that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, whilst I have considered all matters in support of the development, I conclude that, collectively, they would not clearly outweigh the harm to the Green Belt by reason of inappropriateness. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.
17. The proposal is therefore contrary to Policy GBR2 of the District Plan 2018 and the Framework. Further, the proposal is contrary to the provisions of Policies DES3, DES4, TRA2 and TRA3 of the District Plan.
18. For the reasons given above the appeal should be dismissed.

I Dyer

INSPECTOR



Appeal Decision

Site visit made on 18 September 2019

by **I A Dyer BSc (Eng) MIHT**

an Inspector appointed by the Secretary of State

Decision date: 8 October 2019

Appeal Ref: APP/J1915/W/19/3232595

Pinewood School, Hoe Lane, Ware SG12 9PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs M Fuller against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2301/FUL, dated 12 October 2018, was refused by notice dated 12 February 2019.
 - The development proposed is vehicular access to No 4 Walnut Tree Walk.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: -
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2019 (the Framework) and any relevant development plan policies, including any relevant effects on the openness of the Green Belt, and: -
 - Whether 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 required to justify the proposal.

Reasons

3. The appeal site, described as 'House No 4', lies within the grounds of Pinewood School, which is a special needs school, close to the southern boundary with Walnut Tree Walk. It contains a detached dwelling, and between the dwelling and the road is a garden containing mature planting close to the boundary. The boundary itself is a low wire fence, with mature planting beyond. A footpath runs on the north side of Walnut Tree Walk, close to the boundary of the school. Walnut Tree Walk is bounded on both sides by planting and has the character of a rural lane. At present the site is visually well screened from the road.
4. The proposal would remove some of the planting within the garden and take down a length of fence to create a new vehicular access onto Walnut Tree Walk, giving onto a driveway, parking for two vehicles and a manoeuvring area. Currently the dwelling has allocated parking within the school grounds,

but to access these, the residents of the dwelling need to pass through the school grounds.

5. There is no dispute that the site lies within the Metropolitan Green Belt. Paragraph 146 of the Framework makes provision for certain forms of development, including engineering operations such as those proposed, as being not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Paragraph 143 of the Framework is clear that inappropriate development is by definition harmful to the Green Belt.
6. Policy GBR2 of the East Herts District Plan 2018 (the District Plan) requires that planning applications within the Green Belt, as defined on the Policies Map, are considered in line with the provisions of the Framework.
7. The Framework identifies that the fundamental aim of the Green Belt is “to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”.
8. The proposal would introduce parking and its associated paraphernalia into an area within the garden of House No 4. The proposed access would open up the southern boundary of the site by removing part of the fence and two trees, providing views into the garden from Walnut Tree Walk and the footpath running alongside it. The urbanising effect of the proposal would, therefore, be visually intrusive in the context of the rural lane. Given that openness as a concept has both a spatial and a visual dimension, I find the increased urban presence on the site and the visibility of that urbanisation from the public realm would result in a harmful loss of openness.
9. Green Belt serves five purposes. The proposed development would, by virtue of the parking and increased area of hard surfacing, fail to assist in safeguarding the countryside from encroachment. As a result, it would conflict with the purposes of including land within the Green Belt, which is one of the five purposes of the Green Belt.
10. I conclude, therefore, that the proposal would amount to inappropriate development in the Green Belt. The proposal is therefore contrary to Policy GBR2 of the District Plan 2018 and the Framework. I attach substantial weight to the harm to the Green Belt that arises by reason of inappropriateness. Further, the proposal is contrary to the provisions of Policies DES3, DES4, TRA2 and TRA3 of the District Plan which, amongst other things require development to: demonstrate how they will retain, protect and enhance existing landscape features which are of amenity; avoid significant detrimental effect on the character of the local environment; and reflect and protect local distinctiveness.

Other considerations

11. The proposal would provide access and off-street parking for the dwelling without the necessity of travelling through the school grounds. It is argued that the proposal would reduce the number of motor vehicle movements within the school site, thus reducing conflict between vehicles and pupils. The reduction in conflict between motor vehicles and vulnerable pedestrians would be a benefit in favour of the proposal. However, I have little evidence before me of the existing level of conflict resulting in injury or other harm or that the removal of

the parking demand from the dwelling would result in such a significant decrease in vehicle movements within the school site as to translate to any significant reduction in vehicle/pedestrian conflict. Further, there is no evidence before me that, should parking provision be made within the appeal site, the existing use of the parking spaces serving the dwelling would be permanently removed and by removal, reduce the number of vehicle movements within the school site.

12. The appellant argues that the proposed parking could be provided within the site by provision of access from the internal circulatory road within the school site as permitted development. However, even should such a proposal be built, views of the parking and hard surfacing would be screened from the public realm by the planting and hedge alongside Walnut Tree Walk and so the visual harm to openness that I have identified above would not result.
13. The provision of a separate access would facilitate the use of the dwelling without traffic from the domestic use mixing with school traffic, particularly if the dwelling were to be sold or let to persons not associated with the school. Should the link cease between the site and the school this would provide a benefit in terms of increased security for the school and its pupils. At the time of my site visit the dwelling was occupied and so I have little evidence before me that the separation of the dwelling from the school would result in an additional dwelling becoming available, regardless of any need for further housing within the area.
14. There would be likely minor benefits to the local economy in terms of short term employment in the construction industry. Taken together these benefits carry moderate weight.
15. The appellant argues that provision of an independent means of access would facilitate the possible future sale of the dwelling to secure additional school funding. I have limited evidence before me regarding the sustainability of the school and so this matter attracts limited weight.

Conclusion

16. The Framework establishes that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, whilst I have considered all matters in support of the development, I conclude that, collectively, they would not clearly outweigh the harm to the Green Belt by reason of inappropriateness. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.
17. The proposal is therefore contrary to Policy GBR2 of the District Plan 2018 and the Framework. Further, the proposal is contrary to the provisions of Policies DES3, DES4, TRA2 and TRA3 of the District Plan.
18. For the reasons given above the appeal should be dismissed.

I Dyer

INSPECTOR



Appeal Decision

Site visit made on 1 October 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2019

Appeal Ref: APP/J1915/W/19/3230627

Mobile Home adjacent to How Green Meadow, Baldock Road, Buntingford SG9 9EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr T Carey against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2314/FUL, dated 19 October 2018, was refused by notice dated 19 December 2018.
 - The development proposed is use of land for the stationing of a caravan for permanent residential occupation.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the site address as it appears on the application form. Whilst this varies to the address stated on the Council's Decision Notice and on the appellant's appeal form, I am satisfied that it accurately details the site's location.
3. It is evident that a caravan/mobile home (the mobile home) is already stationed on the site and that residential occupation has commenced.

Main Issue

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

Reasons

5. The appeal site lies within the built-up area of Buntingford and, notwithstanding the presence of several commercial uses to the west, its immediate surroundings are predominantly residential in their makeup. Dwellings take a variety of different forms, types and sizes and are situated on a range of differently sized plots. Furthermore, properties are finished in a variety of materials. Thus, the area has a mixed residential character and appearance.
6. The site under consideration here is similarly sized to a plot situated close by to the west that contains No 4 Deacons Place (No 4), a detached residential property. Indeed, other relatively tightly laid out plots exist locally. However, the mobile home that occupies the appeal site and is under consideration here, unlike No 4, is temporary in nature as well as in its form and appearance.

Whilst the residential character of the area is mixed, it is defined by established and permanent built structures.

7. The mobile home's siting is fairly discreet in the sense that it is contained within a fenced area and some planting is in place to the perimeter of this area. Indeed, due to the mobile home's limited height, views from public vantage points of it are restricted to its highest parts including its roof. Nevertheless, the site is located alongside a shared accessway and is setback only a short distance from Baldock Road. The mobile home does therefore have a visual presence and influences how the site is read and experienced. As a self-contained single unit of living accommodation positioned upon its own independent plot, the mobile home appears discordant and out of character with its established built surroundings.
8. Whilst not indicated in the description of development under consideration, the appellant has confirmed that a temporary permission would be acceptable to them such that the mobile home could remain in occupation pending the future construction of a permanent dwelling on the site. However, no precise timeframes have been indicated and separate planning permission for a permanent dwelling would be required. Any such future proposal would be subject to independent assessment and may not ultimately be successful. In such circumstances a temporary permission is not justified and, in any event, would have the effect of elongating the adverse effects I have identified above.
9. Whilst I acknowledge that works have been undertaken to landscape and to tidy up external garden areas on-site, for the reasons set out above, the proposal causes harm to the character and appearance of the area in conflict with Policy DES4 of the East Herts District Plan (October 2018) (the District Plan) and with Policy HD4 of the Buntingford Community Area Neighbourhood Plan (2017) in so far as these policies require that all development proposals must be of a high standard of design and layout to reflect and promote local distinctiveness and that new housing design should respect the rural/semi-rural character of the Buntingford Community Area and its immediate context.

Other Matters

10. It is my understanding that the mobile home's occupation, until recently, supported the provision of care for elderly inhabitants at the adjacent How Green Meadow. However, these previous care requirements no longer apply and any direct association between How Green Meadow and the appeal site ceases to exist. It has been stated by the appellant that the mobile home has been occupied as a main residence and assessed for the paying of Council Tax. Nonetheless, planning permission is not in place to occupy the mobile home as a self-contained unit of accommodation and I have assessed the appeal from this starting point.
11. I acknowledge that, in the event the appeal be dismissed, it is likely that the mobile home's occupiers would ultimately need to find alternative residential accommodation elsewhere. However, it has not been clearly demonstrated that other potential accommodation to suitably meet their needs is not available in the local area.
12. I have noted objections raised by interested parties with respect to matters including highway safety and the effect upon neighbouring living conditions.

However, as I have found the scheme to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.

13. Policy HOU2 of the District Plan states that housing development should make efficient use of land and that proposals should improve the mix of house types available. Indeed, the National Planning Policy Framework (February 2019) (the Framework) reaffirms the Government's objective of significantly boosting the supply of homes and requires that decisions should promote an effective use of land. The Framework also outlines that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs.
14. A stable block previously occupied the site which, I understand, was associated to a past equestrian use. It is thus the appellant's view that, despite more recently having an association to How Green Meadow, the land in question should be considered brownfield. Even were I minded to agree that the site represents previously developed land (as defined in the Framework), the benefits associated with the delivery of a single unit of living accommodation, whilst making an efficient use of land and being in a location well served by surrounding facilities and services, are modest and do not outweigh the significant harm I have identified to the character and appearance of the area.
15. The scheme conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

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

Andrew Smith

INSPECTOR



Appeal Decision

Site visit made on 27 August 2019 by Mariam Noorgat BSc (Hons)

Decision by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2019

Appeal Ref: APP/J1915/D/19/3225670

1 Court Lodge, The Bourne, Ware SG12 0PU

- The appeal is made under section 78 of the Town Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms A Parkin against the decision of East Herts Council.
 - The application Ref 3/18/2517/HH, is dated 15 November 2018 and was refused by notice dated 8 March 2019.
 - The proposed development is the demolition of the existing single storey projection to be replaced by a new single storey rear addition.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing single storey rear projection to be replaced by a new single storey rear addition at 1 Court Lodge, The Bourne, Ware SG12 0PU, in accordance with the terms of the application Ref: 3/18/2517/HH, dated 15 November 2018, and 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 materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 747-2-PLN-20, 747-2-PLN-21, 747-2-COM-20 and 747-2-ELE-20.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the host dwelling and the Ware Conservation Area (Conservation Area).

Reasons

4. The appeal property is an end of terrace, two storey building which has a pitched roof. The terrace contains three properties which due to their setting

within spacious plots, consistency of design and distinctive fenestration lead to it making a positive contribution to the surrounding Conservation Area. However, whilst the front elevation of the terrace is uniform, the rear elevation varies due to different masses and designs of extensions present. In particular, No.2 contains a two-storey rear extension with a hipped roof. All the properties within this terrace benefit from generous gardens, with the appeal site and 64 Baldock Street, at the other end of the terrace, having their gardens primarily to the side.

5. The proposal is a single storey rear extension with a pitched roof part and a flat roofed part accommodating a lantern rooflight. The pitched roof part would be higher than the in-situ extension, however, the proposal would still be significantly lower than the host dwelling and generally appear subservient in height. The pitched roof design would also be sympathetic and complement the host dwelling. The proposed footprint would be greater than the current extension, however, it is proportionate with the existing dwelling and the surrounding spacious garden. As such, the proposal would be a generally subservient addition to the property.
6. The buildings in the surrounding Conservation Area vary in design and scale and there is no common theme. The neighbouring property at No.2 features a two-storey rear extension, the adjacent property at 12 The Bourne is a bungalow, and I also saw a new development close by at Ermine Court. The wider Conservation Area has terraces and buildings with different sizes and styles. The proposal will not be able to be seen clearly from the street scene due to the high boundary walls and the extension's set back from this boundary. The proposal will use matching materials to the host dwelling, as stated within the application form, would maintain significant garden space, which is a prominent feature of the terrace, and be of a design and scale that complements the host dwelling and terrace. As such, the proposal would not be out of keeping with the immediate or surrounding area and would therefore preserve the character and appearance of the Conservation Area.
7. Based on the reasoning above, the proposed development would not have an adverse effect on the character and appearance of the host dwelling, and it would preserve the character and appearance of the Conservation Area. I therefore do not find conflict with Policies DES4 and HOU11 of the East Herts District Plan, 2018, (District Plan) which generally seek to ensure developments are well designed and respect the local character, and Policy HA4 of the District Plan which seeks to ensure developments within Conservation Areas preserve or enhance the character and appearance of the area.

Other Matters

8. The Officer report makes comparison against a previously refused planning application (Ref: 3/18/1638/HH) and state that this proposal does not address the concerns originally raised. Nonetheless, I have determined this appeal on its own merits and find it acceptable.

Conditions

9. The Council has suggested three conditions. In the interests of certainty, a condition is necessary to ensure the development is carried in accordance with the approved plans and within three years of the date of this decision. Furthermore, in the interests of the character and appearance of the

Conservation Area, a condition is necessary to ensure matching materials are used.

Recommendation and Conclusion

10. For the reasons set out above, and having had regard to all other matters raised, I recommend the appeal is allowed.

Mariam Noorgat

APPEAL PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Andrew Owen

INSPECTOR



Appeal Decisions

Site visit made on 11 June 2019

by **A A Phillips BA(Hons) DipTP MTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 October 2019

Appeal Ref: APP/J1915/W/19/3221821

Stable House, 50 West Street, Hertford SG13 8EZ

- 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 Adrian Mitchell and Mrs Mary Sykes against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2701/HH, dated 10 December 2018, was refused by notice dated 30 January 2019.
 - The development proposed is removal of conservatory and replacement with single storey rear extension.
-

Appeal Ref: APP/J1915/Y/19/3221831

Stable House, 50 West Street, Hertford SG13 8EZ

- 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 Mr Adrian Mitchell and Mrs Mary Sykes against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2702/LBC, dated 10 December 2018, was refused by notice dated 30 January 2019.
 - The works proposed are removal of conservatory and replacement with single storey rear extension.
-

Decisions

1. The appeals are dismissed.

Preliminary Matters

2. As the proposal is in a conservation area and relates to a listed building, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). In addition, when considering whether to grant listed building consent I have had special regard to the provisions of section 16(2) of the Act.

Main Issues

3. The main issues are whether the proposal would preserve a Grade II listed building, Stable House 50 West Street, and any of the features of special architectural or historic interest that it possesses; and, the extent to which it would preserve or enhance the character or appearance of the Hertford Conservation Area.

Reasons

4. The appeal building was first listed in 1996 and comprises a former stable, coach house and gardener's cottage built in the eighteenth and nineteenth centuries. They are timber framed and weather-boarded with part pebble-dash and part brick, and incorporate Flemish bond and an old tiled roof. They are former outbuildings associated with Westfield House and were converted and extended in 1996 to form the current house.
5. The frontage of the property is staggered with the converted stable part of the property being situated closest to West Street. The yellow stock brick and white boarded part of the property which is set back further from the road and attached to the stable block was added to the original stable in the late 1800s as a coach house with hay loft over. A single storey horse stall was also added to the original stable and had a separate stable door. It is understood that a two storey extension was also added to the rear of the coach house and hay loft in order to provide a larger garage and a studio above. As part of the 1996 conversion the tack room and workshop/garage were removed. A conservatory was added to the rear of the coach house and side of the 1926 extension property in 1999. The conservatory is rectangular in plan form with a complex roof design to allow for the historic roof and associated features of the existing house. The conservatory is mostly glazed with a brick base to match the host property. Its external walls align through with the rear and side walls of the main building. As such, although it does have a rather complex roof form it sits relatively comfortably in the context of the original building.
6. The special interest of this building lies in its historic association with Westfield House and its character as a series of former ancillary buildings and structures. I recognise that it has been extensively altered and extended over time and the house is an eclectic mix of different architectural forms and features. The property has been altered sympathetically with the alterations forming an integral part of the history of the building.
7. The site is situated in the Hertford Conservation Area. This part of the Conservation Area is dominated by listed buildings including those of a domestic scale and the appeal property. The building is also situated within an Area of Archaeological Significance and partly in Flood Zones 2, 3 and 3b.
8. The proposal is to demolish the existing conservatory and to replace it with a single storey rear extension of white weather boarding and yellow multi stock brickwork. The proposal would be added to the less historically significant later built form of the listed building to the rear of the property. The width of the extension at approximately 4.5 metres would protrude approximately 0.8 metres beyond the existing side elevation of the property. The depth of approximately 4.4 metres would extend approximately 0.6 metres beyond the existing rear wall of the property.
9. The protrusion beyond the side and rear elevations demonstrates that the proposal does not respect the building lines and insufficient regard has been given to the footprint of the existing listed building. As such, it does not complement the form and layout of the listed building. To extend an historic building in this way is not good practice as it would not defer to the host property as a subservient addition, but rather it would, by reason of its design and protrusion beyond the existing side and rear elevations, appear as a visually prominent and obtrusive addition to the historic fabric. This is an

important factor in determining whether or not the extension is harmful to the listed building.

10. I am aware that previous extensions have not aligned with older parts of the property, but I shall determine the appeals on their own merits having regard to the particular circumstances that currently exist, the development plan and other guidance. The most recent extensions to the building, including the footprint of the existing conservatory, were designed to fit into the gap to the north east corner of the property, paying careful attention to the integrity of the original structure. There is little evidence to support the case that the replacement single storey rear extension has been designed to preserve the Grade II listed building and its special interest. Instead it appears to have been designed with the main purpose of providing additional living accommodation for the occupants.
11. I have also taken account of the appellants' comments that the proposal would make the building more interesting, but this does not outweigh the concern I have with respect to the harmful effect on the listed building as a consequence of the proposed form and layout of the proposal.
12. The materials to be used on the external surfaces and fenestration would be sympathetic to the host building and the amended roof form proposed is also acceptable. Nonetheless, I find that the proposal would fail to preserve the special interest of the listed building. Paragraph 193 of the Framework advises that when considering the impact on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
13. Section 72 of the Act requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Due to the position of the extension at the rear of the property and within a garden setting it is unlikely that the extension would be prominent from public or private views other than those experienced within the immediate surroundings of the property's garden. However, given the harm to the historic and architectural interest of the building and the poor relationship of the proposal to the footprint of the listed building, in particular, it cannot reasonably be argued that the works would preserve or enhance the character or appearance of the Conservation Area. As such, I conclude that the proposal would fail to preserve the character and appearance of the conservation area.
14. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The proposal would improve the living accommodation for the occupants, including providing additional accommodation and secure the replacement of an existing sub-standard conservatory with a new extension. In particular, the proposal would provide a year-round dining space for the occupants. However, it is clear to me that the proposal would have only very limited public benefit.
15. Given the above and in the absence of any significant public benefit, I conclude that the proposal would fail to preserve the special historic interest of the Grade II listed building. As such, it fails to satisfy the requirements of the Act, paragraph 192 of the Framework and conflicts with Policies HA1 and HA7 of the District Plan. Among other objectives these seek to sustain and enhance the

significance of listed buildings and extensions to listed buildings will only be permitted where there would be no adverse effect on the architectural and historic character or appearance of the exterior.

Conclusion

16. For the above reasons and having regard to all other matters raised I conclude that the appeals should be dismissed.

A A Phillips

INSPECTOR



Appeal Decision

Site visit made on 17 September 2019 by John Gunn DipTP Dip DBE MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2019

**Appeal Ref: APP/J1915/D/19/3233174
20, Letty Green, Hertford, SG14 2NZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Rebecca Cirillo against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0298/HH, dated 28 February 2019, was refused by notice dated 24 April 2019.
 - The development proposed is demolition of single storey rear extension & outbuildings, replaced with 2 storey rear extension.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application form.

Main Issues

4. The appeal site is located within the Green Belt. Accordingly, the main issues in this case are:
 - whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework') and development plan policy;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect on the character and appearance of the host property and the locality;

- car parking provision; and
- if the development would be inappropriate, whether the harm to the Green Belt by way 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 it.

Reasons for the Recommendation

Whether the proposal is inappropriate development

5. The Framework makes clear at paragraph 145 that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a small number of exceptions. One of these is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Policy GBR1 of the East Herts District Plan October 2018 (DP) is broadly consistent with the Framework stating that planning applications within the Green Belt, as defined on the Policies Map, will be considered in line with the provisions of the National Planning Policy Framework.
6. The Framework defines 'original building' as meaning the building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally.
7. The main parties concur that the original dwelling's floor area was just over 97 m² including the rear projection and the original store/utility. However, the parties disagree over the net increase resulting from the proposed extension and demolition of the property's rear element and outbuilding. The Council assert that the net increase in floorspace would be 25.8 m², or 26.5%, whereas the appellant suggests that, with the demolition of the existing rear extension and outbuildings and store/utility room, the net increase of would be 12.8 m², or around 13%.
8. No quantitative guidance is provided in local or national policy regarding what might be considered disproportionate. However, assessing proportionality is primarily an objective test based on size, and floor area should not be the sole basis for considering whether such a change is disproportionate. As such, it is important to consider this issue in terms of the scale, bulk, massing and built form that would result from the changes sought.
9. Having regards to the significant increase in the depth of the host property, and its visibility through the gap between the appeal property and Nos 10-16 Letty Green, the two storey extension would significantly add to the host property's scale, bulk and mass. Consequently, the extension would amount to disproportionate addition over and above the size of the original building.
10. For these reasons, the proposed development represents inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

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

11. Openness is an essential characteristic of the Green Belt. The appeal proposal would result in the demolition of existing single storey buildings and their replacement with a two storey extension. The increase in height of this part of the building that would result would affect openness in that it would be reduced. Whilst in isolation this reduction in openness would be modest, harm to the Green Belt would result.
12. The appellant has drawn my attention to comments made by the Inspector in relation to a previous appeal. I acknowledge that changes to the rear of the property would not be as prominent as a two storey side extension, however I have not been provided with details of previous proposals and consequently I am unaware of the context in which the comments were made. Accordingly, I can only attach very limited weight to this matter in my consideration of this appeal. Each planning application and appeal is determined on its merits.

The effect on the character and appearance of the host property and the locality

13. The appeal property is an end-of-terrace two storey dwelling in a terrace of four cottages located within the village of Letty Green. When viewed from the front the terrace has a cottage style with a symmetrical appearance with prominent forward facing gables, with dropped eaves between, and large chimneys. The side elevation of the host property has a prominent gable feature which can be seen from the east, across the open side garden. The symmetry of the rear elevations of the terrace is diminished by a large two storey flat roofed extension at No 22 which cuts across the rear facing gable, however the rear gable projections still represent significant features which add to the character of the terrace.
14. The appeal proposal would introduce a significant two storey rear extension which would engulf the existing single storey extension and the adjacent outbuildings. It would result in a disproportionate increase in the depth of the property, adding considerably to the mass of the dwelling, reducing the symmetry of the host property and its neighbours. The extension would not be subservient to the host property. Although trees currently exist within the side garden they are of limited height and would not mitigate the harmful effect of the extension. In any event they could be removed at any time. Consequently, the extension would detract from the character and appearance of the host property and the locality and result in harm, contrary to Policies HOU11 and DES4 of the DP, which jointly seek to respect and improve upon the site and character of the surrounding area in terms of, amongst other things, scale, height and massing, with extensions being subservient to the original dwelling.

Car parking provision

15. The Council requires the provision of 2.5 parking spaces for a three bedroomed house. The current layby that fronts the terrace of 4 properties allows for the parking of approximately 5 cars, and the appellant has indicated that Nos 24 and 26 Letty Green have access to off street parking. I noted at the time of my site visit that the road was lightly trafficked, and there was only a very limited bus service to the area placing a greater reliance on the car as a means of transport. However, overall it appeared that there was adequate parking

provision to meet normal daily needs. The proposal would be unlikely to be of detriment to the free flow of traffic or highway safety in the locality. It is noteworthy that the Highway Authority raised no objections in respect of this issue. I conclude that the car parking provision would be acceptable and there would be no conflict with Policy TRA3 of the DP, which requires that vehicle parking provision is assessed on a site-specific basis.

Other Considerations

16. The Framework makes it clear at paragraph 144, that substantial weight is given to any harm to the Green Belt. It establishes that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations.
17. I acknowledge that the appellant has sought to respond to the earlier reasons for refusal by proposing an extension with similar design features and materials as the host dwelling, however for the reasons set out above I find that harm would result to both the Green Belt and the appearance of the host property and locality. This matter does not outweigh the harm identified.
18. The proposed development would represent inappropriate development, which is, by definition, harmful to the Green Belt. Additionally, I have found that there would be harm to the openness of this part of the Green Belt and the character and appearance of the appeal property and the locality. Limited weight has been given to the material considerations cited in support of the proposal and I conclude that they do not outweigh the harm the proposed development would cause to the Green Belt. Consequently, the very special circumstances necessary to justify the proposal do not exist. The proposal therefore conflicts with Green Belt policy contained within the Framework and Policy GBR1 of the DP.

Conclusion and Recommendation

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

J Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

RC Kirby

INSPECTOR

Appeal Decision

Site visit made on 5 September 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 02 October 2019

Appeal Ref: APP/J1915/W/19/3230243

Land adjacent to The Chestnuts, Redricks Lane, Sawbridgeworth, Hertfordshire CM21 0RL

- 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 John Gilligan against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0406/FUL, dated 5 March 2019, was refused by notice dated 8 May 2019.
 - The development proposed is demolition of a swimming pool enclosure, erection of a bungalow and the creation of a new access.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of a swimming pool enclosure, erection of a bungalow and the creation of a new access at Land adjacent to The Chestnuts, Redricks Lane, Sawbridgeworth, Hertfordshire CM21 0RL in accordance with the terms of the application, Ref 3/19/0406/FUL, dated 5 March 2019, subject to the attached Schedule of Conditions.

Procedural Matter

2. I note that the description of development is different on the application form, appeal form and decision notice. I have taken the description of development from the application form in the interests of certainty.

Main Issues

3. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (Framework); and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Inappropriateness

4. New buildings in the Green Belt are inappropriate development unless they fall in one or more of the exceptions given in paragraph 145 of the Framework, one of which is limited infilling in villages.
5. The appeal site lies adjacent to a dwelling to the west known as The Chestnuts within a cluster of houses along Redricks Lane. The adjacent property to the east is known as Alston Oaks which is accessed from the adjacent highway and is a large two storey detached dwelling in extensive grounds. I acknowledge that the settlement boundary does not extend south of Redricks Lane and therefore does not include the appeal site. However, given the proximity of the appeal site to nearby dwellings, and having had regard to the appeal case¹ and Court of Appeal judgment² referred to by the appellant, I consider that in assessing built form on the ground, the appeal site forms part of the built-up area.
6. There is no definition of infilling in the East Herts District Plan October 2018 (DP) or the Framework. I note the comments of the Council and the Inspector for an appeal case relating to Alston Oaks³ regarding the definition of infilling. While the spacing between the dwellings in the group of houses along the south side of Redricks Lane is generous, the separation distance between them is such that these dwellings are visually seen as part of a cluster along the road. Therefore, given the proximity to nearby buildings and the location of the site adjacent to the highway amongst a group of dwellings, the proposed development could be considered as limited infilling and can be treated within the exceptions identified in paragraph 145 of the Framework.
7. The Inspector for the case at Alston Oaks considered that there would have been a significant gap between that proposed development and the first house within the cluster. However, the site subject of this appeal lies adjacent to Alston Oaks and closer to the host building of The Chestnuts, such that the gap between the proposal and Alston Oaks would be less than half the distance referred to by the previous Inspector. Therefore, that appeal is not directly comparable to the proposed development. In any event, each case must be determined on its own merits.
8. Consequently, the proposal would not be inappropriate development in the Green Belt having regard to the Framework as it would represent limited infilling in a village. It would not conflict with DP Policy GBR1 which relates to the Green Belt or the Framework in this respect.
9. Since the proposal constitutes limited infilling in a village, a consideration of openness is not necessary in the context of the Green Belt. The Council has also expressed a concern about visual amenity and the proposed footprint of the dwelling compared with the swimming pool enclosure but as this seems to be related to openness that too need not be considered.

¹ Appeal ref: APP/T2350/W/16/3164118

² Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

³ Appeal ref: APP/J1915/W/18/3194317

Character and appearance

10. The appeal site lies within the boundary of The Chestnuts along the south side of Redricks Lane and is part of a small cluster of detached dwellings with generous spacing and countryside beyond. The boundary between the properties at The Chestnuts and the adjacent Alston Oaks with the highway consists of a tall brick wall and timber fence with tall trees immediately behind. The north side of the highway is characterised by single storey detached dwellings with closer spacing such that the character and appearance of this side is less rural. Consequently, given the moderate size of the front gardens on the north side of the highway, and the tall trees in the vicinity of the appeal site as well as the small cluster of houses with open countryside beyond, the area nevertheless has a pleasant semi-rural character and appearance.
11. The proposal would introduce a single storey dwelling to an area that is currently part of the side garden of The Chestnuts. While the proposed dwelling would reduce the gap between The Chestnuts and Alston Oaks, there would still be a reasonable separation distance between the buildings such that the semi-rural aspect would be preserved. The proposed single storey building would be set back from the road along a similar building line to The Chestnuts and would have a modest height such that the proposal would not adversely affect the semi-rural character and appearance of the area and street scene particularly given the existing tall boundary treatment along Redricks Lane.
12. Moreover, the existing swimming pool enclosure is substantial in size and given its materials, is not in keeping with the character and appearance of the area. Given the location of the swimming pool enclosure near to the rear boundary of The Chestnuts with open countryside, and its substantial footprint and height, its demolition would increase the sense of spaciousness at the rear of the site closer to open countryside, providing an improvement to the character and appearance of the area.
13. The proposal would result in an increase in the amount of hardstanding on the site and would introduce an opening in the brick wall. However, given the other driveways and vehicular accesses in the area, the proposal would not be incongruous in this respect. Since the proposal would introduce a three-bedroom dwelling on the site, it is likely that the scheme would result in some increase in domestic paraphernalia. However, since the site lies in close proximity to other residential dwellings, the proposal would not have a significant urbanising effect on the character and appearance of the area.
14. The Council has not objected to the design including proposed materials of the proposed development and from the evidence before me I see no reason to disagree. I note the Council's reference to the proposed scheme resulting in pressure to remove trees. However, having had regard to the arboricultural report⁴, there is little evidence before me to substantiate this risk.
15. Consequently, the proposed development would not conflict with DP Policy DES4 which seeks development that respects or improves upon the character of the site and the surrounding area. It would also accord with paragraph 127 of the Framework in this respect.

⁴ OMC Associates - BS 5837 Arboricultural Impacts Assessment

Other Matters

16. I acknowledge concerns that the proposal would set a precedent for future development. However, each case must be determined on its individual merits.
17. I also note concerns relating to the lawfulness of the use of outbuildings on the site, construction of an access and felling of trees on the site. I have also had regard to comments regarding the advertisement of the planning application. However, these are matters for the Council in the first instance and have not altered my overall decision.
18. Evidence has been put before me relating to permitted development rights for the existing vehicular access, however, this has little bearing on my overall decision.

Conditions

19. I have considered the conditions suggested by the Council. I have made some minor changes to these having regard to the tests set out in paragraph 55 of the Framework and the guidance contained in the Planning Practice Guidance.
20. I have attached a condition relating to time limits and a condition specifying the relevant plans as this provides certainty. Conditions relating to external materials, boundary treatment and landscaping are necessary to safeguard the character and appearance of the area. The condition relating to landscaping needs to be pre-commencement as it is likely to affect the early stages of construction.
21. The conditions relating to the access arrangement, the parking and manoeuvring areas and surface drainage are necessary to safeguard highway safety.
22. The condition requiring the demolition of the swimming pool building prior to commencement of development is necessary to safeguard the character and appearance of the area and needs to be pre-commencement in the interests of certainty of the overall proposal. A condition relating to construction hours is also necessary to safeguard the living conditions of neighbouring occupiers.
23. In accordance with Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has confirmed that they have no objection to the suggested pre-commencement conditions.

Conclusion

24. For the reasons given above the appeal should be allowed.

R Sabu

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no 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: JG/01Rev1, JG/02 and JG/03.
- 3) No development above ground shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to the first occupation or use of the development hereby approved, details of all boundary walls, fences or other means of enclosure to be erected shall be 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) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) Before first occupation of the approved development, the access arrangement, including visibility splays onto Redricks Lane, shall be completed in accordance with the approved in principle plan JG/01Rev1 and constructed to the specification of the Highway Authority and retained as such thereafter.
- 8) The dwelling hereby permitted shall not be occupied until the parking spaces and vehicle manoeuvring areas clear of the highway illustrated on drawing number JG/01Rev1 have been constructed.
- 9) The building shall not be occupied until the area shown for parking and vehicular access on drawing no. JG/01Rev1 has been drained and surfaced in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and that area shall thereafter be kept available at all times for the parking of vehicles.
- 10) All structures and buildings identified for demolition in the approved plans shall be demolished prior to commencement of the proposed dwelling.
- 11) Demolition or construction works shall take place only between 0730 and 1830 on Mondays to Fridays, between 0730 and 1300 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.



Appeal Decision

Site visit made on 12 August 2019

by **E Symmons BSc (Hons), MSc**

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal Ref: **APP/J1915/W/19/3230496**

32 Ermine Street, Thundridge SG12 0SY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Susan Daniel against the decision of East Hertfordshire District Council.
 - The application ref 3/19/0622/HH, dated 21 March 2019, was refused by notice dated 16 May 2019.
 - The development is for construction of a new timber framed and weathered boarded structure for use as a garage and barn.
-

Decision

1. The appeal is allowed, and planning permission is granted for construction of a new timber framed and weathered boarded structure for use as a garage and barn in accordance with the terms of the application reference 3/19/0622/HH, dated 21 March 2019 and in accordance with the following approved plans: Location 01; Site Plan 01; Block Plan 01 and Proposed 01.

Procedural Matters

2. During my site visit it was apparent that the appeal structure had already been constructed.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt and the purposes of including land within it;
 - the effect of the proposal on the heritage assets;
 - 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

4. The National Planning Policy Framework¹ (the Framework) sets out, at Paragraph 145, that other than for listed exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate. Policy GBR1 of the East Herts District Plan 2018 (District Plan) states that planning applications in the Green Belt will be considered in line with the provisions of the Framework. Under paragraph 145 (d), a replacement building in the same use and not materially larger than that replaced is not considered inappropriate. The appellant considers this exception applies.
5. On 2 July 2018 Listed Building Consent² (LBC) was granted to demolish a dilapidated building on the site. Within the submitted Design and Access Statement the building was described as “*turkey sheds currently used partially as car ports*”. The building was situated directly to the west of the appeal building and photographs show this being used as a car port. Two subsequent applications for a replacement do not refer to the building’s previous use.
6. The Council considers the appeal building inappropriate believing it to be associated with a change of use of land previously used for agriculture. However, no evidence has been provided to substantiate this view. They also consider the building is outwith the curtilage of the dwelling. However, the appellant states that when sold, the land was separated into two plots with the access road, outbuilding and private garden sold with the house. This is consistent with my observations during the site visit. Although there is a small fence around the private garden at the front of the dwelling there is access directly from this area to the drive. The area around the appeal building appears to function as an integral part of the dwelling and the driveway itself is fenced off from the adjacent community orchard. Also, when the drive front gate is closed, the garden area is further opened up on to the drive. This view is further supported by the plan which accompanied the application for LBC which shows the drive within the site boundary.
7. The planning use of the building has been described by the appellant as turkey sheds, and the description within the application for the current building states the use as garage and barn. There is some evidence to support the recent use of the demolished building as a car port within a letter from the previous owner’s family. This states that the building was constructed by her father in the 1960s and was not in agricultural use. However, this goes on to say that it was only used as a car port after 1968. There is however, no evidence to conclude that the buildings were not originally constructed as turkey sheds. I therefore consider the use as garage to be different from their original function.
8. The appeal building is within the curtilage of the dwelling and I have no certainty that the land is or was agricultural in nature. Despite this, no evidence has been provided to suggest that the original use in planning terms was not, as per the appellant’s own initial description, as turkey sheds. Use as a garage is therefore different from the original use. Furthermore, I do not consider that any of the remaining exceptions within paragraph 145 apply to this development. Consequently, I find that the construction of the building

¹ National Planning Policy Framework, February 2019.

² Application ref 3/18/1061/LBC.

constitutes inappropriate development in the Green Belt, which according to paragraph 143 of the Framework is, by definition, harmful. This would therefore conflict with Policy GBR1 of the District Plan.

Openness

9. The part of the drive closest to the highway is ungated. There is a wide access gate further along the drive, set back from the road and level with the rear wall of the terrace. There is a smaller pedestrian gate leading from the open part of the drive to the front door. Once through the large access gate the drive widens and leads to a more open area. The garage which is the subject of this appeal sits in the bottom right corner of the drive area. A community orchard sits to the north east of the property being fenced from and accessed via a gate from the drive. This is confirmed by a sign adjacent to the highway which displays the orchard opening hours and indicates that the access road is a private driveway.
10. The main parties agree that the previous structure on the site measured around 12m long, 4.2m deep and 1.8m high with photographs provided to verify its position and condition. The current building has a rear sloping roof and is constructed from dark coloured timber boards. It has one single and one double set of doors and measures approximately 8m long, 5.2m deep and 2.4m high. It is smaller than the building it replaces and is set within the less conspicuous bottom corner of the appeal site further from the road than the demolished buildings and partly screened by trees and shrubs. Cars currently use the drive and a garage in this position would not cause any additional impact upon openness with regard to vehicle use. The new structure before me has a lesser effect upon the openness of the Green Belt than those previously present. For these reasons, this proposal would also not conflict with Policy DES4 of the District Plan which seeks that proposals reflect local distinctiveness.
11. Had the proposal preserved the openness of the Green Belt, this would have been a neutral factor within my assessment of this appeal. However, this proposal, when taken as a whole, has had an overall beneficial impact upon the openness of the Green Belt when compared with the previous building due to its smaller size and less conspicuous position. The current situation has opened views down the drive and towards the community orchard beyond, particularly as seen from the highway. This view was previously constrained by the presence of the dilapidated buildings which were in a more prominent position closer to the highway. These changes weigh in favour of the proposal.

Effect upon the heritage assets

12. The appeal site is within Wadesmill Conservation Area (CA). The dwelling, accessed from the rear of the terrace via a pebbled side driveway, is a two storey, brick built end terrace property. Due to its historical significance as a model estate house it is Grade II listed. The site currently makes a positive contribution to the character and appearance of the CA providing a setting for the listed building allowing views down the drive towards the open space beyond. Due to the presence of the heritage assets, development must be considered within the context of S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires me to pay particular attention to the desirability of preserving or enhancing the character and appearance of the CA. As the property is Grade II listed, I must also have regard to Section 66(1)

of the Act which requires me to pay particular attention to the desirability of preserving a listed building or its setting.

13. The traditional style, colour and materials used for the new garage do not detract from either the CA or the setting of the listed building. Its position at the bottom of the drive is discrete and it replaces a building which had a greater mass and dilapidated condition. The Council's conservation section considers the garage to have a neutral effect upon the character and appearance of the CA, and upon the setting of the listed buildings. From my own observations I concur with this view. The site is within an Area of Archaeological Significance and technical advice from the archaeological section states that the building would be unlikely to have a significant impact on the archaeological interest.
14. Paragraph 193 of 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. The proposal preserves and enhances the setting of the listed building. As the effect of the proposal on the CA and the setting of the listed building is neutral, it does not conflict with this policy or Policies HA1 and HA7 of the District Plan. Together these policies seek that development preserves and/or enhances the historic environment. In terms of the effect of this upon the Green Belt, this represents a neutral factor.

Other considerations

15. The main parties agree that the previous building was in a dilapidated condition. The replacement structure is smaller than that demolished and situated towards the rear of the drive. This combination of factors has had a beneficial effect upon the openness of the Green Belt. This is particularly seen when viewed from the highway with open views now present both towards and from the orchard. Despite its historical use, the previous structure had been used recently as a car port thus no new incongruous vehicular use has been introduced into the Green Belt.
16. The replacement before me has been constructed from a sympathetic palette of materials and its presence has a neutral effect upon the heritage assets. The proposal, when taken as a whole, considering both the demolition of the previous structure and construction of the new garage, is likely to have improved the setting of the heritage assets. These were previously in close proximity to dilapidated buildings which were visible within the CA and represented a negative element with respect to those heritage assets.
17. The circumstances surrounding the construction of this building, combined with the poor condition of the previous structure which would have detracted from the appearance of the Green Belt, CA and setting of the listed building, are all mitigating circumstances which are afforded substantial weight within this decision.

Green Belt Planning Balance

18. I have found that the development is inappropriate within the Green Belt and I give this substantial weight. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that all development must preserve this openness. However, when considering the condition of the previous building, the demolition and replacement with a

smaller, less conspicuous structure of sympathetic design and materials, the development has improved the openness of the Green Belt and I give this substantial weight. I have also found that the other considerations with respect to the positive effect of the development when taken as a whole on the heritage assets is a positive factor within this decision which is also afforded substantial weight. The development's harm by reason of its inappropriateness is outweighed by its positive impact upon the openness of the Green Belt in combination with the other considerations. This amounts to the very special circumstances necessary to justify the development. For the above reasons, the proposal would not conflict with the District Plan or the Framework when these policies are taken as a whole.

19. The appeal is therefore allowed.

E Symmons

INSPECTOR



Appeal Decision

Site visit made on 14 October 2019 by S Watson BA(Hons) MSc

Decision by R C Kirby BA(Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 30 October 2019

Appeal Ref: APP/J1915/D/19/3234655

Three Mile Pond Farm, The Farmhouse, Cambridge Road, Sawbridgeworth CM21 9BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Brace against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0673/HH, dated 28 March 2019, was refused by notice dated 24 May 2019.
 - The development proposed is the erection of a new boundary wall to north of site to create a separate pedestrian access to Farm and Stable Cottages; and creation of a new vehicular access with new boundary walls and gates to the south of the site (amended application).
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The appeal property lies within the Metropolitan Green Belt. The Council acknowledges that the proposal would not result in harm to the Green Belt. On the basis of the evidence before me, I find that the alterations to the access and boundary treatments would not result in inappropriate development in the Green Belt.
4. The main issue in this case is the effect of the proposal on the settings of Three Mile Pond Farmhouse and Farm Cottage, which are Grade II Listed Buildings.

Reason for the Recommendation

5. The appeal site is situated on the east side of a layby serving Cambridge Road. The site contains Three Mile Pond Farmhouse, a detached Grade II listed building, which is perpendicular to Cambridge Road. To the north of the dwelling is a shared access serving the appeal site and Farm Cottage, a Grade II listed building, which is sited north of the access within a group of former agricultural buildings. The farmhouse is characterised by its traditional form at the edge of Sawbridgeworth within a rural area. The significance of the appeal

- property and nearby buildings derives from their design, age and the legibility of their previous function.
6. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving the setting of a listed building. In this respect national policy on heritage assets, which includes listed buildings, is set out in the National Planning Policy Framework (Framework). At paragraph 192, it sets out matters which should be taken into account including sustaining and enhancing the significance of the heritage asset and the desirability of new development making a positive contribution to local character and distinctiveness.
 7. The proposal is to create a new access to the south of the site and provide vehicular access through part of the rear garden of the property. A new wall would be erected along part of the courtyard. The existing vehicular access to the farmhouse would be closed off and 2 pedestrian gates and a fixed timber panel would be provided, which would provide pedestrian access to both the farmhouse, Farm Cottage and Stable Cottage.
 8. The appellant has suggested that the main door to the farmhouse had originally been on the southern elevation. He has drawn my attention to the list description which refers to an 'older entrance' on this side of the property. While the residential main entrance may have once been on the southern side of the building it is clear that the former working-side of the farmhouse is orientated towards the north, and what would have been the associated farm buildings. The legibility of this connection is retained by the existing driveway and the shared access onto the courtyard serving Farm Cottage and Stable Cottage. The proposed wall and closing of this vehicular access would, by separating the appeal site from the cottages and other former farm buildings, erode the historic connection between them and the farmhouse.
 9. Furthermore, the new access, with its splayed entrance and set back of the entrance gates would introduce an alien type of access which would unduly urbanise the rural setting of the farmhouse.
 10. Although it is possible that some of the works before me may be carried out under development permitted by the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, no substantive evidence has been provided to demonstrate the extent of such development. In any event, the appeal before me is for the works set out in the banner heading and I have considered the proposal accordingly.
 11. In light of the above, I conclude that the proposal would not preserve the setting of either the host property or nearby listed buildings. Whilst the harm that would be caused to the significance of these heritage assets would be less than substantial, the Framework is clear that great weight should be given to an asset's conservation. In this case the harm that I have identified needs to be weighed against the public benefits of the proposal.
 12. There is some anecdotal evidence submitted, by the appellant and other supporters, that there is an issue with pedestrian safety on and around the site due to the current vehicular access. It is claimed that by separating pedestrian and vehicular movements on site and improving visibility at the entrance, the new access would increase pedestrian safety. However, no substantive

evidence has been submitted to support these matters and so I can only give them little weight.

13. The appellant considers that the proposal would allow the creation of a quiet, private garden away from the main road, which would improve the living conditions of the property's occupiers. Whilst I have no doubt that this may be of benefit to the appellant, this matter does not amount to a public benefit in favour of the proposal.
14. While the separate accesses would also improve privacy between the neighbouring properties, the public benefit of this would be limited and would not outweigh the harm to the significance of the heritage assets identified above.
15. Overall, I consider the public benefits do not outweigh the harm to the significance of the heritage assets. Therefore, for the reasons above I conclude that the proposal fails to preserve the setting of the host property and nearby listed building, in conflict with Policy HA7 of the East Herts District Plan 2018 and Chapter 16 of the Framework which together, and amongst other issues, seek to sustain and enhance the significance of heritage assets and preserve the setting of listed buildings.

Other Matters

16. I note that letters of support were received by the Council when it considered the planning application. However, the presence of support from neighbours or other consultees does not outweigh the harm identified.

Conclusion and Recommendation

17. For the reasons given above, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be dismissed.

RC Kirby

INSPECTOR



Appeal Decision

Site visit made on 2 October 2019

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

an Inspector appointed by the Secretary of State

Decision date: 9th October 2019

Appeal Ref: APP/J1915/D/19/3234906

Dean House, Wyddial Road, Wyddial, Herts SG9 0EW

- 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 Chris Thwaite against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0705/HH, dated 29 March 2019, was refused by notice dated 20 May 2019.
 - The development proposed is described as 'the erection of an extension to the existing games room to be used in conjunction with Dean House as a granny annexe. Alterations to elevations of the existing games room.'
-

Decision

1. The appeal is dismissed.

Main Issues

2. There are two main issues. These are a) The effect of the proposed development on the character and appearance of the area with particular regard to the significance and setting of a grade II listed building; and b) whether the provision of accommodation in the annexe would be excessive having regard to the requirements of the development plan.

Reasons

Character and Appearance

3. Dean House is a detached grade II listed thatched cottage set in a roughly rectangular plot. The cottage is in an L shape plan form with a later single storey extension to one of its narrow sides. It is a good quality surviving example of a timber framed thatched building finished in render and in a substantial landscaped garden plot. The outbuilding concerned is single storey and has a barn hip style roof reflective of the aforementioned extension to the cottage. It is a more modern addition to the appeal site and finished in a mock tudor design. It's of a subservient scale to the cottage and located beside it, separated by entrance gates from the single storey extension.
4. The proposed development would extend the building to its rear. It would not increase its height. Its ground floor where a kitchen would be provided would be set on a lower land level to allow a bedroom to be contained in the roof space above. The existing floor space would become the living room.

5. Whilst the proposed works to the outbuilding would not increase its height there would be an overall impression of greater height when it is viewed from the garden of the cottage due to the use of a lower ground floor level. The ground floor of the extension would be set noticeably lower and thus add a substantial amount of new mass to the building, increasing its scale. Its resulting size would lead to a degree of competition for dominance in the plot with both the extension to the cottage and the cottage itself, unbalancing the subservient relationship intended by the existing size of the outbuilding. Being a much later addition, I feel this competition in the plot and thus the setting of the cottage has the potential to undermine its quality and dominance.
6. Turning to the design of the extension, and in particular the use of the dropped ground floor level, it would appear an overly large and awkward bolt on to the building itself. Setting the fenestration much lower than the existing would not only emphasise the extension's height but also result in a confused and lop-sided elevation.
7. As a thatched cottage of some scale, land take and quality in terms of its traditional materials and finishes, Dean House rightly forms the focal point of the plot. The scale and design of the resulting outbuilding would, for the reasons I have set out, detract from such an effect, ultimately reducing its significance in both historical and architectural terms and impinging on its setting.
8. I would consider the harm that I have found, given the extent of its reach, to be less than substantial. Nonetheless, and as per paragraph 193 of the Framework¹, great weight should be given to the conservation of heritage asset, irrespective of the level of harm. Turning to paragraph 196 of the Framework then, I would balance such harm against the public benefits of the proposal although I have not been advised of any.
9. With this and the above in mind, the proposed development would be harmful to the significance of the grade II listed Dean House by adversely affecting its setting. Such that it would result in conflict with both the aims of section 16 of the Framework and Policies HA7, GBR2 and DES4 of the Local Plan². Between them and amongst other things, these policies seek to ensure that proposals that affect the setting of a listed building will only be permitted where the setting is preserved; size, scale, mass, form, siting and design of alterations to buildings are appropriate to the character, appearance and setting of the site and; development generally should be of a high standard of design and layout to reflect local distinctiveness.

Size of the Annexe

10. Policy HOU13 of the Local Plan sets out the parameters for acceptable residential annexes. It suggests, amongst other criteria, that the scale of the annex should not dominate the existing dwelling and is the minimum level of accommodation required to support the needs of the occupant. The development plan justifies this stance to identify an annexe as such and make them distinct from independent dwellings.
11. The extent of accommodation on offer in the proposed annexe is not what one would call small. The extension would house a kitchen with downstairs WC and

¹ The National Planning Policy Framework 2019

² East Herts District Plan 2018

the space above it, contained in a roof, would be a bedroom through which the main bathroom would be accessed. The largest space would be the living room and whilst it is unclear from the plans as to whether this space would still be used partly for the existing dwelling, more likely than not, given the other facilities accessed off it, it would form the living space for the annexe.

12. It seems to me that the provision of accommodation would allow independent occupation of the annexe and for the same reasons I cannot see where the clear functional relationship to the main dwelling would be. Whilst the Council do not appear to express substantive concerns over the functional relationship issue, I feel that this, along the amount of floorspace in the living room, separate kitchen, downstairs WC and first floor bedroom would be excessive for the purposes of a residential annex designed around a single person who, ultimately for an annexe, should occupy it partially alongside some remaining reliance on the host dwelling.
13. The appeal scheme would therefore fail the criteria for a residential annexe as set out by Policy HOU13. Harm arising in this case from conflict with the development plan.

Other Matters

14. The outward appearance of the extension in terms of its use of materials and general shape reflects the existing detailing of the building, windows and bulk aside. I do not therefore resist the scheme on these grounds. I am also mindful of the fact that, in terms of the public realm, the extension would be largely obscured by entrance gates, the existing building and a substantial mature willow tree in a neighbouring front garden. I am not persuaded therefore that the appeal scheme would necessarily have an overly harmful landscape impact or indeed one more than strictly local to the appeal site. However, these factors either alone or taken together would not be sufficient to make the proposed development acceptable.
15. The appellant sets out that the annexe would house an elderly relative. Whilst I would be minded to attach some weight to this as a need for the accommodation, it is unclear as to whether this is an immediate pressing need for which there is no other reasonably available option. It is also not sufficiently clear if the proposed works are the only way to achieve additional accommodation for the purposes of an annexe. I would therefore be inclined to conclude that such a need would be insufficient to allow the appeal when balanced against the harms that I have found.

Conclusion

16. For the reasons set out above, and whilst having regard to other matters that have been raised, the appeal is dismissed.

John Morrison

INSPECTOR



Appeal Decision

Site visit made on 2 October 2019

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

an Inspector appointed by the Secretary of State

Decision date: 9th October 2019

Appeal Ref: APP/J1915/D/19/3235227

73 Havers Lane, Bishops Stortford CM23 3PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Batchelor against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0892/HH, dated 29 April 2019, was refused by notice dated 21 June 2019.
 - The development proposed is described as 'removal of conservatory and part of single storey converted garage. Double storey front extension and single storey side extension.'
-

Decision

1. The appeal is dismissed.

Main Issue

2. The effect of the appeal scheme on the character and appearance of the area.

Reasons

3. The appeal site comprises a detached two storey dwelling set back from and facing the road. It occupies a corner plot which is roughly triangular in shape and borders Havers Lane and Thorley Hill. The existing dwelling has been extended with a conservatory to the side and a flat roof single storey projection towards Havers Lane. The former is to be removed and the latter replaced as part of the appeal scheme which is for a two storey front extension and a single storey side extension.
4. The forward projecting element of the proposals would bring the main front gable in much closer proximity to the front boundary of the plot. Whilst it would not come further forward than the nearest dwelling to the east, the amount of projection when compared to the existing dwelling's footprint would make the resulting building overly prominent in the street scene. An impact that would be exacerbated by the use of the steep gable design. In addition, the new front extension would run from the ridge height of the existing body of the building, accordingly dominating it.
5. I note there are a number of forward projecting gable features on other detached dwellings locally but these tend to be narrower and lower than the ridge height of the building to which they attach and the entire building in the majority of cases is set much further back into its plot. Some dwellings also

have a sloped roof scape facing the street frontage rather than a gable which accordingly reduced their overall prominence. These factors, as well as the building's prominent street corner location, would emphasise the obviousness of the proposed extension. It would eliminate a forward projecting flat roof element which as it stands does not appropriately reflect the design, shape or proportions of the existing dwelling. However, this existing part of the building is not before me to determine, it is at least subservient and the replacement of an unsuitable existing element with one arguably even more so would not be sufficient justification for the appeal scheme.

6. I note that the single storey element of the proposed development would also be a flat roof design, but it would incorporate some modern glazing and a sedum roof covering, making it clearly modern and thus a distinct and subservient 'bolt on' to the side. These factors would offset its overall impact. As would the fact that the majority of its spread and form would appear only marginally above an existing rendered boundary wall. Overall therefore I do not find that the single storey element would be harmful. Even so, this would not reduce the harm that the two storey element would cause to the character and appearance of the area for the reasons I have explained. Harm which would render the scheme contrary to Policies DES4 and HOU11 of the Local Plan¹. Amongst other things and along with section 12 of the Framework², these policies seek to ensure that new development (extensions to dwellings specifically) is of a high quality and contextually appropriate design and appearance that reflects and promotes local distinctiveness and be of a scale, size, mass, form, siting and design that is appropriate to the character, appearance and setting of the existing dwelling.

Other Matters

7. I note the appellant's comments regarding the appeal building not being listed and the appeal site not sitting within a conservation area. Be this as it may, this does not mean that any assessment of the design impact of a given development should be less rigorous or indeed reduced weight be given to how it may affect the character and appearance of the area in which it would be located.
8. A number of examples of substantial additions to local dwellings, some front extensions, have been cited in the evidence. Whilst I note these seem to have the benefit of planning permission they are not before me to determine nor do they strike me as having sufficient similarities to the appeal scheme or its context to warrant me allowing the appeal. Which I have considered on its own merits.

Conclusion

9. It is for the reasons I have set out above that the appeal is dismissed.

John Morrison

INSPECTOR

¹ East Herts District Plan 2018

² The National Planning Policy Framework 2019



Appeal Decision

Site visit made on 14 October 2019 by S Watson BA(Hons) MSc

Decision by R C Kirby BA(Hons) DipTP MRTPI

An Inspector appointed by the Secretary of State

Decision date: 25 October 2019

Appeal Ref: APP/J1915/D/19/3233337

17 Mansfield, High Wych CM21 0JT

- 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 Louise Driscoll against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0897/HH, dated 30 April 2019, was refused by notice dated 25 June 2019.
 - The development proposed is side and rear extension.
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The appeal site is located within the Metropolitan Green Belt. Accordingly, the main issues in this case are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (Framework) and any relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area; and,
 - whether the harm by reason of its inappropriateness, and any other harm, is clearly outweighed by other considerations and if so whether this would amount to the very special circumstances required to justify the proposal.

Reasons for the Recommendation

Whether Inappropriate Development

4. Paragraph 143 of the Framework establishes that inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 states that substantial weight should be given to any harm to the Green Belt and very special circumstances

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.

5. Subject to a number of exceptions, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions are set out in Paragraph 145 of the Framework and include the 'extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'.
6. The development would include a sizeable ground-floor extension which wraps around the north and east elevations and a smaller first-floor extension wrapped around the north-east corner. Although the extension would replace an existing small, ground-floor rear extension, the new addition would be significant in scale. There is a disagreement over the size of the original dwelling and the scale of the increase over and above this original size. Nevertheless, I find that both the appellants' and Council's calculations show increases which would be substantial and would therefore comprise disproportionate additions to the original dwelling.
7. Having regard to the above, I conclude that the proposal, taken with the existing porch extension, would result in disproportionate additions over and above the size of the original dwelling. The extension would not accord with Paragraph 145(c) of the Framework or Policy GBR1 of the East Herts District Plan 2018 (EHDP) and would therefore represent inappropriate development within the Green Belt.

Openness

8. Paragraph 133 of the Framework identifies that openness is one of the essential characteristics of Green Belts, along with permanence. The Courts have confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result, but equally this does not mean that the openness of the Green Belt has no visual dimension.
9. In this instance the effect of the cumulative increased size of the host dwelling would clearly be experienced both visually and spatially and the openness of the Green Belt would be reduced as a result. Although this reduction would be limited and localised, harm to the Green Belt would result.

Character and Appearance

10. The appeal site is on the inside of a bend in the road and is therefore visible from the front and side. A row of trees and hedging currently provide some screening to the side of the site, and although the house is still largely visible when viewed from the east, its appearance is softened. I
11. It is clear that the Council is not concerned about the single storey rear extension and I have no evidence before me to reach a different conclusion in this regard.
12. The side extension would result in the loss of the existing planting, and a long and blank two-storey wall close to the side boundary of the site would be constructed. It would introduce a prominent, dominant feature into the street

scene which would detract from the pleasant soft and open character of this part of the road. Harm to the character and appearance of the area would occur as a result of the extension. Although I note that the extension would respect the style of the host dwelling this does not outweigh the harm identified.

13. I note that the appellants' appeal statement refers to the landscaping along the side boundary is to be retained. However, the plans considered by the Council show the trees are to be removed and I have limited my consideration to these plans.
14. In light of the foregoing, I conclude that the proposal would be harmful to the character and appearance of the street scene and surrounding area, contrary to Policies DES4 and HOU11 of the EHDP which seek, amongst other matters, for development to be of a high standard of design and layout which reflect and promote local distinctiveness, with extensions being of a size, scale and mass that are appropriate to the character and appearance of the surrounding area.

Other Considerations

15. I note the appellants' desire to provide additional, and more useable, space in order to accommodate family life and their concern that the existing house does not meet the Nationally Described Space Standards. Whilst I have no doubt that the additional accommodation would be of benefit to the appellants and their family, it is likely that the development is permanent and would remain long after the current personal circumstances cease to exist. I am only able to attach limited weight to these matters as a result.
16. I note also the intention to demolish the garage, which I understand may contain asbestos, as part of the scheme. However, the proposal before me is not required for the demolition of the garage which could be done separately. Nevertheless, the removal of the garage may provide some benefit to health, and would provide some limited benefit to openness, but these matters would not be sufficient to mitigate the harm that would be caused by the proposal. As such this matter carries only limited weight in my overall consideration.

Green Belt Conclusion

17. The proposal would amount to inappropriate development in the Green Belt, and further harm to the Green Belt would be caused as a result of loss of openness. These matters carry substantial weight. Further harm would be caused to the character and appearance of the area. At most, limited weight has been given to the considerations cited in support of the proposal. I conclude that taken together, they do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. The proposal conflicts with the Green Belt aims of Policy GBR1 of the EHDP and the Framework.

Other Matters

18. Examples of planning permissions granted by the Council have been set out within the appellants' statement of case, as well as a concern regarding the differing outcomes of the decisions made by the Council. I do not have sufficient information before me to ascertain whether the circumstances of each are directly comparable to the current proposal, or to comment on

consistency between decisions. Nevertheless, all proposals need to be considered on their own merit.

Recommendation

19. For the reasons given above, and having regard to all other matters raised, I recommend that the appeal should be dismissed.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be dismissed.

RC Kirby

INSPECTOR